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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 02–037–1]

Karnal Bunt; Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Karnal bunt regulations to make changes to the list of areas or fields regulated because of Karnal bunt, a fungal disease of wheat. We are adding certain areas in Arizona and Texas to the list of regulated areas either because they were found during surveys to contain a bunted wheat kernel, or because they are within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. We are also removing certain individual fields and other areas from the list of regulated areas in Arizona, New Mexico, and Texas, either because recently completed detection and delineating surveys show them to be free of Karnal bunt, or because they have not been used to produce Karnal bunt host crops within the last 5 years, or because they have been used to produce Karnal bunt host crops in 1 or more years following initial regulation and the crops have been tested and found free of Karnal bunt. These actions are necessary to help prevent the spread of Karnal bunt into noninfected areas of the United States, and to relieve restrictions that are no longer warranted.

DATES: This interim rule is effective October 3, 2002. We will consider all comments that we receive on or before December 2, 2002.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–037–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–037–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–037–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Spaide, Senior Program Manager, Surveillance and Emergency Programs Planning and Coordination, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737–1236; (301) 734–7819.

SUPPLEMENTARY INFORMATION:

Background

Karnal bunt is a fungal disease of wheat (*Triticum aestivum*), durum wheat (*Triticum durum*), and triticale (*Triticum aestivum X Secale cereale*), a hybrid of wheat and rye. Karnal bunt is caused by the smut fungus *Tilletia indica* (Mitra) Mundkur and is spread primarily through the movement of infected seed. Some countries in the international wheat market regulate Karnal bunt as a fungal disease requiring quarantine; therefore, without measures taken by the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture, to prevent its spread, the presence of Karnal bunt in the United States could have significant consequences with regard to the export of wheat to international markets.

Upon detection of Karnal bunt in Arizona in March of 1996, Federal quarantine and emergency actions were imposed to prevent the interstate spread of the disease to other wheat producing areas in the United States. The quarantine continues in effect, although it has since been modified, both in terms of its physical boundaries and in terms of its restrictions on the production and movement of regulated articles from regulated areas. The regulations regarding Karnal bunt are set forth in 7 CFR 301.89–1 through 301.89–16 (referred to below as the regulations).

Regulated Areas

The regulations in § 301.89–3(e) provide that we will classify a field or area as a regulated area when it is:

- A field planted with seed from a lot found to contain a bunted wheat kernel;
- A distinct definable area that contains at least one field that was found during a survey to contain a bunted wheat kernel. The distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the areas's proximity to a field found during survey to contain a bunted wheat kernel; or
- A distinct definable area that contains at least one field that was found during survey to contain spores consistent with Karnal bunt and has been determined to be associated with grain at a handling facility containing a bunted wheat kernel. The distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of that area's proximity to a field that has been associated with grain at a handling facility containing a bunted wheat kernel.

The boundaries of distinct definable areas are determined using the criteria in paragraphs (b) through (d) of § 301.89–3, which provide for the regulation of less than an entire State, the inclusion of noninfected acreage in a regulated area, and the temporary designation of nonregulated areas as regulated areas. Paragraph (c) of § 301.89–3 states that the Administrator

may include noninfected acreage within a regulated area due to its proximity to an infestation or inseparability from the infected locality for regulatory purposes, as determined by:

- Projections of the spread of Karnal bunt along the periphery of the infestation;
- The availability of natural habitats and host materials within the noninfected acreage that are suitable for establishment and survival of Karnal bunt; and
- The necessity of including noninfected acreage within the regulated area in order to establish readily identifiable boundaries.

When we include noninfected acreage in a regulated area for one or more of the reasons previously listed, the noninfected acreage, along with the rest of the acreage in the regulated area, is intensively surveyed. Negative results from surveys of the noninfected acreage provide assurance that all infected acreage is within the regulated area. In effect, the noninfected acreage serves as a buffer zone between fields or areas affected with Karnal bunt and areas outside of the regulated area.

The regulations in § 301.89–3(f) describe the boundaries of the regulated areas in Arizona, California, New Mexico, and Texas. Certain regulated areas in Arizona, California, and Texas include noninfected acreage that functions as a buffer zone to guard against the spread of Karnal bunt. Our current policy is to utilize a 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. Based on over 5 years of experience surveying noninfected acreage included in regulated areas, we have determined that a buffer zone of no more than 3 miles is sufficient.

In this interim rule, we are amending § 301.89–3(f) by modifying the list of regulated areas associated with Karnal bunt. Specifically, we are adding certain areas in Arizona and Texas to the list of regulated areas either because the fields or areas were found during detection and delineating surveys to contain a bunted wheat kernel, or because the fields or areas fall within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. This action is necessary in order to help prevent the spread of Karnal bunt into noninfected areas of the United States.

As part of this same rule, we are also removing certain individual fields and other areas from the list of regulated areas in Arizona, New Mexico, and Texas, either because recently completed detection and delineating surveys show them to be free of Karnal bunt, or because they have not been used to produce Karnal bunt host crops within the last 5 years, or because they have been used to produce Karnal bunt host crops in 1 or more years following initial regulation and the crops have been tested and found free of Karnal bunt. This action relieves restrictions on those fields or areas that are no longer warranted.

Arizona

The list of regulated areas in Arizona includes individual fields and other distinct definable areas located in La Paz, Maricopa, Pinal, and Yuma Counties. In this interim rule, we are adding new regulated areas in Maricopa and Pinal Counties due to the detection of bunted wheat kernels there or as a result of the application of the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. These additional regulated areas in Maricopa and Pinal Counties involve approximately 18,852 agricultural acres (310 fields) and 86,439 nonagricultural acres.

We are also removing from the list of regulated areas in Arizona a total of 73 individual fields totaling 3,376 acres located in the counties of Maricopa (39 fields), Pinal (3 fields), and Yuma (31 fields). These fields had been designated as regulated areas because they were planted, in 1996, with seed that was potentially contaminated with Karnal bunt. We now are removing these 73 fields from the list of regulated areas either because they have not been used to produce Karnal bunt host crops within the last 5 years or because they have been used to produce Karnal bunt host crops in 1 or more years following initial regulation and the crops produced have been tested and found free of Karnal bunt. With the deregulation of the 31 fields in Yuma County, this county will no longer contain any regulated areas.

Overall, the changes in Arizona will result in the amount of regulated agricultural acreage increasing to a total of approximately 465,000 acres.

New Mexico

The list of regulated areas in New Mexico include 98 individual fields located in the counties of Dona Ana (41 fields), Hidalgo (2 fields), Luna (22 fields), and Sierra (33 fields). In this interim rule, we are removing all 98 of these fields from the list of regulated areas. Similar to the situation in Arizona discussed above, these fields in New Mexico had been designated as regulated areas because they were planted, in 1996, with seed that was potentially contaminated with Karnal bunt. We are removing these individual fields from the list of regulated areas either because they have not been used to produce Karnal bunt host crops within the last 5 years or because they have been used to produce Karnal bunt host crops in 1 or more years following initial regulation and the crops produced have been tested and found free of Karnal bunt. With the deregulation of these 98 fields, the State of New Mexico will no longer contain any regulated areas.

Texas

The list of regulated areas in Texas includes individual fields and other distinct definable areas located in Archer, Baylor, El Paso, Hudspeth, McCulloch, San Saba, Throckmorton, and Young Counties. We are making changes to the list of regulated areas in Archer, Baylor, Throckmorton, and Young Counties as a result of recently completed detection and delimiting surveys in this four-county area. In 2001, bunted wheat kernels were detected in wheat produced in each of these counties. Since the detection of bunted wheat kernels occurred late in the harvesting season, there was not an opportunity to complete survey work to determine the extent of this new infection. Therefore, we designated the entire county area in each of the four counties as a regulated area in order to include all fields that would have a reasonable possibility of being infected.

We recently completed detection and delimiting surveys in Archer, Baylor, Throckmorton, and Young Counties and are amending the description of the regulated areas in these four counties to better reflect those fields or areas affected by Karnal bunt. In modifying the boundaries of the regulated areas, we are deregulating a total of 420,261 acres (6,466 fields) in the four-county area. However, we are also adding as a new regulated area 1,560 acres (24 fields) in Knox County, which is adjacent to Baylor County. The acreage in Knox County is being added to the list of regulated areas as a result of the application of the 3-mile-wide buffer zone around an area affected with Karnal bunt in Baylor County.

We also are adding certain areas in McCulloch and San Saba Counties to the list of regulated areas in Texas either because of the detection of bunted wheat kernels in those areas or because of the application of the 3-mile-wide buffer zone around those fields or areas affected with Karnal bunt. These additional regulated areas consist of 523 acres (11 fields) in McCulloch County and 2,983 acres (69 fields) in San Saba County.

We are also removing from the list of regulated areas in Texas 25 individual fields totaling 494 acres in the counties of El Paso (21 fields) and Hudspeth (4 fields). Similar to the situations in Arizona and New Mexico discussed above, these particular fields had been designated as regulated areas because they were planted, in 1996, with seed that was potentially contaminated with Karnal bunt. We now are deregulating these fields either because they have not been used to produce Karnal bunt host crops within the last 5 years or because they have been used to produce Karnal bunt host crops in 1 or more years following initial regulation and the crops produced have been tested and found free of Karnal bunt. With the removal of these 25 fields, El Paso and Hudspeth Counties will no longer contain any regulated areas.

Overall, as a result of the changes in this interim rule, the amount of regulated agricultural acreage in Texas will decline by about 60 percent to approximately 285,000 acres.

Emergency Action

This rulemaking is necessary on an emergency basis to help prevent Karnal bunt from spreading into to noninfected areas of the United States. This rule will also relieve restrictions on certain fields or areas that are no longer warranted. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments we receive during the comment period for this interim rule (*see* **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

In this interim rule, we are modifying the list of areas regulated because of Karnal bunt. Specifically, certain distinct definable areas in Arizona and Texas are being added to the list of regulated areas either because the fields or areas were found to contain a bunted wheat kernel, or because the fields or areas fall within the 3-mile-wide buffer zone around fields or areas affected with Karnal bunt. We are also removing certain individual fields and other areas from the list of regulated areas in Arizona, New Mexico, and Texas, either because recently completed detection and delineating surveys show them to be free of Karnal bunt, or because they have not been used to produce Karnal bunt host crops within the last 5 years, or because they have been used to produce Karnal bunt host crops in 1 or more years following initial regulation and the crops have been tested and found free of Karnal bunt. These actions will help prevent the spread of Karnal bunt into noninfected areas of the United States, as well as relieve restrictions on certain areas and fields that are no longer warranted. These actions also will reduce the total regulated area by 316,687 acres.

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small businesses, organizations, and governmental jurisdictions. The entities most likely to be affected by this interim rule are wheat producers whose fields have been added to the list of regulated areas, as well as producers whose fields have been removed from the list of regulated areas and who plan to grow wheat in the future. The exact number of such producers is unknown, but no more than about 500 producers are likely to be affected by this interim rule. For the reasons discussed below, we do not expect this rule to have a significant economic effect on affected producers.

Producers affected by this interim rule are likely to be small in size based on U.S. Small Business Administration (SBA) standards for wheat farmers, as well as data from the *1997 Census of Agriculture* (1997 Census), which is the most recent census available. The SBA classifies wheat producers with total annual sales of less than $750,000 as small entities. According to 1997 Census data, there were a total of 6,135 farms in Arizona in 1997. (This total includes, but is not limited to, wheat farms.) Of the total number of farms in Arizona, 89 percent had annual sales that year of less than $500,000, well below the SBA's small entity threshold of $750,000 for wheat farms. Similarly, the percentages of farms with annual sales of less than $500,000 in New Mexico (14,094 total farms) and Texas (194,301 total farms) were 97 percent and 98 percent, respectively.

Producers whose fields are being deregulated will benefit from this rule because they will be able to move wheat without restriction. Prior to this rule, any wheat grain grown in those fields could be moved to nonregulated areas under a certificate only if it tested negative for bunted kernels, and any positive-testing wheat could be moved only under limited permit and subject to certain restrictions. Commercial wheat seed grown in those fields could not be moved at all to nonregulated areas. Conversely, wheat producers whose fields are being regulated will be adversely affected, because they will be subject to those movement restrictions.

However, the effect of the interim rule on individual producers is not likely to be significant for several reasons. First, the testing of grain for Karnal bunt is already performed free of charge for producers in all regulated areas. For producers of wheat grain in the affected fields, therefore, the elimination (or imposition) of the testing requirement is a matter of inconvenience only, not a financial issue. Second, very little commercial wheat seed is, or is expected to be, grown in the affected fields. Because of that, the elimination (or imposition) of restrictions on moving seed is expected to have, at most, only a minimal effect on producers.

The elimination (or imposition) of restrictions will increase (or restrict) marketing opportunities for producers, with impacts on prices received by individual producers. Those producers whose fields are deregulated may enjoy increased market opportunities for their wheat (*e.g.*, the availability of export markets) and receive a higher commodity price. Alternatively, those producers whose fields are newly regulated may see the market for their wheat become more limited and receive a lower price. For producers in their first regulated crop season, such negative price-received effects will be mitigated by compensation for losses. Therefore, the net effect on producer revenues in the newly regulated areas is not likely to be significant. In subsequent regulated crop seasons, producers will incorporate the risk of Karnal bunt infestation into their planting decisions.

It is also possible that this interim rule will serve to boost U.S. wheat exports to those countries with Karnal bunt restrictions that only recognize area freedom from Karnal bunt at the county level or above. As a result of this interim rule, producers in Yuma County, AZ, El Paso and Hudspeth Counties, TX, and from anywhere in the State of New Mexico would be eligible to export grain to countries with such restrictions. Conversely, since a portion of Knox County, TX, is being added to the list of regulated areas for the first time, Karnal bunt host crops produced in Knox County may no longer be eligible for export to those countries that

recognize area freedom only at the county level or above. We expect that despite these changes, the effect of this interim rule on U.S. wheat exports is not likely to be significant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are amending 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 166, 7711, 7712, 7714, 7731, 7735, 7751, 7752, 7753, and 7754; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75–15 also issued under Sec. 204, Title II, Pub. L. 106–113, 113 Stat. 1501A–293; sections 301.75–15 and 301.75–16 also issued under Sec. 203, Title II, Pub. L. 106–224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. In § 301.89–3, paragraph (f) is amended as follows:

a. Under the heading ''Arizona,'' by revising the entries for Maricopa County and Pinal County to read as set forth below, and by removing the entry for Yuma County.

b. By removing the heading ''New Mexico'' and the entries for Dona Ana, Hidalgo, Luna, and Sierra Counties.

c. Under the heading ''Texas,'' by revising the entries for Archer, Baylor, McCulloch, San Saba, Throckmorton, and Young Counties to read as set forth below; by adding, in alphabetical order, an entry for Knox County to read as set forth below; and by removing the entries for El Paso and Hudspeth Counties.

§ 301.89–3 Regulated areas.

* * * * *

(f) * * *

Arizona

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Maricopa County. (1) Beginning at the southeast corner of sec. 28, T. 1 S., R. 2 E.; then west to the southwest corner of sec. 30, T. 1 S., R. 2 E.; then north to the southeast corner of sec. 24, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 24, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 24, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 14, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 14, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 9, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 9, T. 1 S., R. 1 E.; then west to the southwest corner of sec. 5, T. 1 S., R. 1 E.; then north to the northwest corner of sec. 5, T. 1 S., R. 1 E.; then west to the northeast corner of sec. 6, T. 1 S., R. 1 W.; then south to the southeast corner of sec. 7, T. 1 S., R. 1 W.; then west to the northeast corner of sec. 14, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 14, T. 1 S., R. 2 W.; then west to the northeast corner of sec. 20, T. 1 S., R. 2 W.; then south to the southeast corner of sec. 20, T. 1 S., R. 2 W.; then west to the northeast corner of sec. 29, T. 1 S., R. 3 W.; then south to the southeast corner of sec. 29, T. 1 S., R. 3 W.; then west to the southwest corner of sec. 27, T. 1 S., R. 4 W.; then north to the northwest corner of sec. 27, T. 1 S., R. 4 W.; then west to the southwest corner of sec. 24, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 24, T. 1 S., R. 5 W.; then west to the southwest corner of sec. 14, T. 1 S., R. 5 W.; then north to the northwest corner of sec. 14, T. 1 N., R. 5 W.; then east to the southwest corner of sec. 7, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 7, T. 1 N., R. 2 W.; then east to the northeast corner of sec. 7, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 5, T. 1 N., R. 2 W.; then east to the northeast corner of sec. 5, T. 1 N., R. 2 W.; then north to the northwest corner of sec. 28, T. 2 N., R. 2 W.; then east to the northeast corner of sec. 28, T. 2 N., R. 2 W.; then north to the northwest corner of sec. 3, T. 3 N., R. 2 W.; then east to the northeast corner of sec. 1, T. 3 N., R. 1 W.; then south to the northwest corner of sec. 19, T. 3 N., R. 1 E.; then east to the northeast corner of sec. 23, T. 3 N., R. 1 E.; then south to the northwest corner of sec. 1, T. 2 N., R. 1 E.; then east to the northeast corner of sec. 1, T. 2 N., R. 1 E.; then south to the northwest corner of sec. 6, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 4, T. 1 N., R. 2 E.; then south to the northwest corner of sec. 15, T. 1 N., R. 2 E.; then east to the northeast corner of sec. 13, T. 1 N., R. 2 E.; then south to the southeast corner of sec. 12, T. 1 S., R. 2 E.; then west to the northeast corner of sec. 16, T. 1 S., R. 2 E.; then south to the point of beginning.

(2) Beginning at the intersection of the Maricopa/Pinal County line and the southwest corner of sec. 31, T. 2 S., R. 5 E.; then north to the southeast corner of sec. 25, T. 2 S., R. 5 E.; then west to the southwest corner of sec. 25, T. 2 S., R. 5 E.; then north to the northwest corner of sec. 24, T. 2 S., R. 4 E.; then west to the southwest corner of sec. 15, T. 2 S., R. 4 E.; then north to the northwest corner of sec. 3, T. 2 S., R. 4 E.; then east to the southwest corner of sec. 35, T. 1 S., R. 4 E.; then north to the northwest corner of sec. 35, T. 1 S., R. 4 E.; then east to the northeast corner of sec. 33, T. 1 S., R. 5 E.; then north to the northwest corner of sec. 22, T. 1 S., R. 5 E.; then east to the northeast corner of sec. 19, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 8, T. 1 S., R. 6 E.; then east to the southwest corner of sec. 3, T. 1 S., R. 6 E.; then north to the northwest corner of sec. 3, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 2, T. 1 S., R. 6 E.; then south to the southeast corner of sec. 2, T. 1 S., R. 6 E.; then east to the northeast corner of sec. 7, T. 1 S., R. 7 E.; then south to the northwest corner of sec. 5, T. 2 S., R. 7 E.; then east to the northeast corner of sec. 3, T. 2 S., R. 7 E.; then south to the southeast corner of sec. 3, T. 2 S., R. 7 E.; then east to the intersection of the northeast corner of sec. 12, T. 2 S., R. 7 E. and the Maricopa/Pinal County line; then south along the Maricopa/Pinal County line to the southeast corner of sec. 36, T. 2 S, R. 7 E.; then east along the Maricopa/Pinal County line to the point of beginning.

(3) Beginning at the southeast corner of sec. 30, T. 6 S., R. 5 W.; then west to the northeast corner of sec. 33, T. 6 S., R. 6 W.; then south to the southeast corner of sec. 33, T. 6 S., R. 6 W.; then west to the southwest corner of sec. 36, T. 6 S., R. 7 W.; then north to the

northwest corner of sec. 36, T. 6 S., R. 7 W.; then west to the southwest corner of sec. 26, T. 6 S., R. 7 W.; then north to the northwest corner of sec. 23, T. 6 S., R. 7 W.; then west to the southeast corner of sec. 18, T. 6 S., R. 7 W.; then north to the northeast corner of sec. 6, T. 6 S., R. 7 W.; then west to the southeast corner of sec. 31, T. 5 S., R. 7 W.; then north to the northwest corner of sec. 29, T. 5 S., R. 7 W.; then east to the northwest corner of sec. 28, T. 5 S., R. 7 W.; then east to the southwest corner of sec. 22., T. 5 S., R. 7 W.; then north to the northwest corner of sec. 22, T. 5 S., R. 7 W.; then east to the southwest corner of sec. 14, T. 5 S., R. 7 W.; then north to the northwest corner of sec. 14, T. 5 S., R. 7 W.; then east to the northeast corner of sec. 14, T. 5 S., R. 6 W.; then south to the southeast corner of sec. 14, T. 5 S., R. 6 W.; then east to the northeast corner of sec. 24, T. 5 S., R. 6 W.; then south to the southeast corner of sec. 24, T. 5 S., R. 6 W.; then east to the northeast corner of sec. 30, T. 5 S., R. 5 W.; then south to the southeast corner of sec. 30, T. 5 S., R. 5 W.; then east to the northeast corner of sec. 32, T. 5 S., R. 5 W.; then south to the southeast corner of sec. 32, T. 5 S., R. 5 W.; then east to the northeast corner of sec. 5, T. 6 S., R. 5 W.; then south to the southeast corner of sec. 20, T. 6 S., R. 5 W.; then west to the northeast corner of sec. 30, T. 6 S., R. 5 W.; then south to the point of beginning.

(4) Beginning at the southeast corner of sec. 34, T. 2 N., R. 5 E.; then west to the southwest corner of sec. 31, T. 2 N., R. 5 E.; then north to the northwest corner of sec. 7, T. 2 N., R. 5 E.; then east to the northeast corner of sec. 10, T. 2 N., R. 5 E.; then south to the point of beginning.

Pinal County. (1) Beginning at the intersection of the Maricopa/Pinal County line and the northwest corner of sec. 7, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 8, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 8, T. 2 S., R. 8 E.; then east to the northeast corner of sec. 16, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 28, T. 2 S., R. 8 E.; then west to the northeast corner of sec. 32, T. 2 S., R. 8 E.; then south to the southeast corner of sec. 32, T. 2 S., R. 8 E.; then west to the Maricopa/Pinal County line; then north along the Maricopa/Pinal County line to the point of beginning.

(2) Beginning at the intersection of the Maricopa/Pinal County line and the northeast corner of sec. 2, T. 3 S., R. 7 E.; then south to the southeast corner of sec. 2, T. 3 S., R. 7 E.; then west to the northeast corner of sec. 9, T. 3 S., R. 6 E.; then south to the southeast corner of sec. 4, T. 4 S., R. 6 E.; then west to the southwest corner of sec. 5, T. 4 S., R. 6 E.; then north to the northwest corner of sec. 5, T. 4 S., R. 6 E.; then west to the southwest corner of sec. 34, T. 3 S., R. 5 E.; then north to the northwest corner of sec. 10, T. 3 S., R. 5 E.; then west to the southwest corner of sec. 6, T. 3 S., R. 5 E.; then north to the intersection of the northwest corner of sec. 6, T. 3 S., R. 5 E. and the Maricopa/Pinal County line; then east along the Maricopa/Pinal County line to the point of beginning.

(3) Beginning at the southeast corner of sec. 5, T. 6 S., R. 4 E.; then west to the southwest corner of sec. 5, T. 6 S., R. 3 E.; then north to the northwest corner of sec. 5, T. 6 S., R. 3 E.; then west to the southwest corner of sec. 32, T. 5 S., R. 3 E.; then north to the northwest corner of sec. 32, T. 5 S., R. 3 E.; then west to the southwest corner of sec. 30, T. 5 S., R. 3 E.; then north to the southeast corner of sec. 25, T. 5 S., R. 2 E.; then west to the southwest corner of sec. 25, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 5 S., R. 2 E.; then west to the southwest corner of sec. 23, T. 5 S., R. 2 E.; then north to the northwest corner of sec. 35, T. 4 S., R. 2 E.; then east to the northeast corner of sec. 35, T. 4 S., R. 2 E.; then north to the northwest corner of sec. 25, T. 4 S., R. 2 E.; then east to the southwest corner of sec. 20, T. 4 S., R. 3 E.; then north to the northwest corner of sec. 20, T. 4 S., R. 3 E.; then east to the northeast corner of sec. 21, T. 4 S., R. 4 E.; then south to the northwest corner of sec. 34, T. 4 S., R. 4 E.; then east to the northeast corner of sec. 35, T. 4 S., R. 4 E.; then south to the northwest corner of sec. 1, T. 5 S., R. 4 E.; then east to the northeast corner of sec. 1, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 1, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 12, T. 5 S, R. 4 E.; then south to the southeast corner of sec. 24, T. 5 S., R. 4 E.; then west to the southwest corner of sec. 24, T. 5 S., R. 4 E.; then south to the northeast corner of sec. 35, T. 5 S., R. 4 E.; then west to the northwest corner of sec. 35, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 37, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 48, T. 5 S., R. 4 E.; then south to the southeast corner of sec. 49, T. 5 S., R. 4 E.; then west to the northeast corner of sec. 5, T. 6 S., R. 4 E.; then south to the point of beginning.

(4) The following individual fields in Pinal County are regulated areas: 309021801, 309021804, 309021812, 309031304, 309033507, 309042544, 309042545, 309042601, 309042607, 309042619, 309042620, 309042621, 309050104, 309050109, 309050122, 309050207, 309050209.

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Texas

Archer County. (1) Beginning at the intersection of the line of longitude −98.5457° W. and the line of latitude 33.6656° N.; then east along the line of latitude 33.6656° N. to the line of longitude −98.4380° W.; then south along the line of longitude −98.4380° W. to the line of latitude 33.5763° N.; then west along the line of latitude 33.5763° N. to the line of longitude −98.5457° W.; then north along the line of longitude −98.5457° W. to the point of beginning.

(2) Beginning at the intersection of the Archer/Baylor County line and the line of latitude 33.4051° N.; then east along the line of latitude 33.4051° N. to the line of longitude −98.9345° W.; then north along the line of longitude −98.9345° W. to the line of latitude 33.4570° N.; then east along the line of latitude 33.4570° N. to the line of longitude −98.8227° W.; then south along the line of longitude −98.8227° W. to the Archer/Young County line; then west along the Archer/Young County line to the Archer/Baylor County line; then north along the Archer/Baylor County line to the point of beginning.

(3) Beginning at the intersection of the Archer/Young County line and the line of longitude −98.7926° W.; then north along the line of longitude −98.7926° W. to the line of latitude 33.3978° N.; then east along the line of latitude 33.3978° N. to the line of longitude −98.6870° W.; then south along the line of longitude −98.6870° W. to the Archer/Young County line; then west along the Archer/Young County line to the point of beginning.

Baylor County. (1) Beginning at the intersection of the line of longitude −99.1633° W. and the line of latitude 33.8148° N.; then east along the line of latitude 33.8148° N. to the line of longitude −99.0436° W.; then south along the line of longitude −99.0436° W. to the line of latitude 33.7143° N.; then west along the line of latitude 33.7143° N. to the line of longitude −99.1633° W.; then north along the line of longitude −99.1633°W. to the point of beginning.

(2) Beginning at the intersection of the Baylor/Knox County line and the line of latitude 33.6751° N.; then east along the line of latitude 33.6751° N. to the line of longitude −99.3831° W.; then south along the line of longitude −99.3831° W. to the line of latitude 33.6505° N.; then east along the line of latitude 33.6505° N. to the line of longitude

−99.2542° W.; then south along the line of longitude −99.2542° W. to the line of latitude 33.5598° N.; then west along the line of latitude 33.5598° N. to the line of longitude −99.3139° W.; then south along the line of longitude −99.3139° W. to the line of latitude 33.4542° N.; then west along the line of latitude 33.4542° N. to the line of longitude −99.4276° W.; then north along the line of longitude −99.4276° W. to the line of latitude 33.5284° N.; then west along the line of latitude 33.5284° N. to the Baylor/Knox County line; then north along the Baylor/Knox County line to the point of beginning.

(3) Beginning at the intersection of the Baylor/Throckmorton County line and the line of longitude −99.1271° W.; then north along the line of longitude −99.1271° W. to the line of latitude 33.4445° N.; then east along the line of latitude 33.4445° N. to the line of longitude −99.0189° W.; then south along the line of longitude −99.0189° W. to the line of latitude 33.4051° N.; then east along the line of latitude 33.4051° N. to the Baylor/Archer County line; then south along the Baylor/Archer County line to the Baylor/Throckmorton County line; then west along the Baylor/Throckmorton County line to the point of beginning.

Knox County. Beginning at the intersection of the Knox/Baylor County line and the line of latitude 33.5284° N.; then west along the line of latitude 33.5284°N. to the line of longitude −99.4962° W.; then north along the line of longitude −99.4962° W. to the line of latitude 33.5802° N.; then west along the line of latitude 33.5802° N. to the line of longitude −99.4971° W.; then north along the line of longitude −99.4971° W. to the line of latitude 33.6751° N.; then east along the line of latitude 33.6751° N. to the Knox/Baylor County line; then south along the Knox/Baylor County line to the point of beginning.

McCulloch County. Beginning at the intersection of the McCulloch/San Saba County line and the line of latitude 31.2147° N.; then west along the line of latitude 31.2147° N. to the line of longitude 99.1818° W.; then north along the line of longitude 99.1818° W. to the line of latitude 31.3455° N.; then east along the line of latitude 31.3455° N. to the line of longitude 99.1860° W.; then north along the line of longitude 99.1860° W. to the line of latitude 31.4464° N.; then east along the line of latitude 31.4464° N. to the McCulloch/San Saba County line; then south along the McCulloch/San Saba County line to the point of beginning.

San Saba County. (1) Beginning at the intersection of the San Saba/Mills County line and the line of longitude −98.5851° W.; then south along the line of longitude −98.5851° W. to the line of latitude 31.1301° N.; then west along the line of latitude 31.1301° N. to the line of longitude −98.9463° W.; then north along the line of longitude −98.9463° W. to the line of latitude 31.3299° N.; then east along the line of latitude 31.3299° N. to the San Saba/Mill County line; then south along the San Saba/Mill County line to the point of beginning.

(2) Beginning at the intersection of the San Saba/McCulloch County line and the line of latitude 31.4474° N.; then east along the line of latitude 31.4474° N. to the line of longitude −99.9922° W.; then south along the line of longitude −99.9922° W. to the line of latitude 31.2147° N.; then west along the line of latitude 31.2147° N. to the San Saba/McCulloch County line; then north along the San Saba/McCulloch County line to the point of beginning.

Throckmorton County. Beginning at the intersection of the Throckmorton/Young County line and the line of latitude 33.1810° N.; then west along the line of latitude 33.1810° N. to the line of longitude −98.9922° W.; then north along the line longitude −98.9922° W. to the line of latitude 33.2175° N.; then west along the line of latitude 33.2175° N. to the line of longitude −99.0837° W.; then north along the line of longitude −99.0837° W. to the line of latitude 33.3073° N.; then east along the line of latitude 33.3073° N. to the line of longitude −99.0531° W.; then north along the line of longitude −99.0531° W. to the line of latitude 33.3535° N.; then west along the line of latitude 33.3535° N. to the line of longitude −99.1271°W.; then north along the line of longitude −99.1271°W. to the Throckmorton/Baylor County line; then east along the Throckmorton/Baylor County line to the Throckmorton/Young County line; then south along the Throckmorton/Young County line to the point of beginning.

Young County. (1) Beginning at the intersection of the Young/Archer County line and the line of longitude −98.8228° W.; then south along the line of longitude −98.8228° W. to the line of latitude 33.3600° N.; then west along the line of latitude 33.3600° N. to the line of longitude −98.9410° W.; then south along the line of longitude −98.9410° W. to the line of latitude 33.3001° N.; then east along the line of latitude 33.3001° N. to the line of longitude −98.8884° W.; then south along the line of longitude −98.8884° W. to the line of latitude 33.2878° N.; then east along the line of latitude 33.2878° N. to the line of longitude −98.8355° W.; then south on the line of longitude −98.8355° W. to the line of latitude 33.2552° N.; then east along the line of latitude 33.2552° N. to the line of longitude −98.7856° W.; then south along the line of longitude −98.7856° W. to the line of latitude 33.2237° N.; then east along the line of latitude 33.2237° N. to the line of longitude −98.7065° W.; then south along the line of longitude −98.7065° W. to the line of latitude 33.1329° N.; then west along the line of latitude 33.1329° N. to the line of longitude −98.8250° W.; then north along the line of longitude −98.8250° W. to the line of latitude 33.1484° N.; then west along the line of latitude 33.1484° N. to the line of longitude −98.9312° W.; then north along the line of longitude −98.9312° W. to the line of latitude 33.1810° N.; then west along the line of latitude 33.1810° N. to the Young/Throckmorton County line; then north along the Young/Throckmorton County line to the Young/Archer County line; then east along the Young/Archer County line to the point of beginning.

(2) Beginning at the intersection of the Young/Archer County line and the line of longitude −98.6851° W.; then south along the line of longitude −98.6851° W. to the line of latitude 33.3053° N.; then west along the line of latitude 33.3053° N. to the line of longitude −98.7906° W.; then north along the line of longitude −98.7906° W. to the line of latitude 33.3069° N.; then west along the line of latitude 33.3069° N. to the line of longitude −98.7926° W.; then north along the line of longitude −98.7926° W. to the Young/Archer County line; then east along the Young/Archer County line to the point of beginning.

Done in Washington, DC, this 27th day of September 2002 .

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 02–25160 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–CE–16–AD; Amendment 39–12899; AD 2002–20–04]

RIN 2120–AA64

Airworthiness Directives; SOCATA—Groupe AEROSPATIALE Model TB 21 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain SOCATA—Groupe AEROSPATIALE (Socata) Model TB 21 airplanes. This AD requires you to modify the exhaust system. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for France. The actions specified by this AD are intended to prevent high levels of carbon monoxide from entering the cockpit during certain flight configurations, which could result in the pilot becoming incapacitated or impairing his/her judgement. Such a condition could lead to the pilot not being able to make critical flight safety decisions and result in loss of control of the airplane.

DATES: This AD becomes effective on November 18, 2002.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the regulations as of November 18, 2002.

ADDRESSES: You may get the service information referenced in this AD from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone: 011 33 5 62 41 73 00; facsimile: 011 33 5 62 41 76 54; or the Product Support Manager, SOCATA—Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; facsimile: (954) 964–4141. You may view this information at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–CE–16–AD, 901 Locust, Room 506, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Discussion

What Events Have Caused This AD?

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified FAA that an unsafe condition may exist on certain Socata Model TB 21 airplanes. The DGAC reports three occurrences in which carbon monoxide levels in the cockpit have been found to be above specified tolerance levels during certain flight configurations. Carbon monoxide is entering the cockpit from the rear part of the fuselage.

This condition resulted from a design problem and all three occurrences were discovered prior to delivery of any of the affected airplanes. The modification required in this AD is being applied at the factory for all other Model TB 21 airplanes not affected by this AD.

What Is the Potential Impact if FAA Took No Action?

This condition, if not corrected, could result in high levels of carbon monoxide entering the cockpit during certain flight configurations. High levels of carbon monoxide in the cockpit could result in the pilot becoming incapacitated or impairing his/her judgement. Such a condition could lead to the pilot not being able to make critical flight safety decisions and result in loss of control of the airplane.

Has FAA Taken Any Action to This Point?

We issued a proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Socata Model TB 21 airplanes. This proposal was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on July 2, 2002 (67 FR 44401). The NPRM proposed to require you to modify the exhaust system.

Was the Public Invited to Comment?

The FAA encouraged interested persons to participate in the making of this amendment. The following presents the comment received on the proposal and FAA's response to the comment.

Comment Issue: AD Is Not Warranted

What Is the Commenter's Concern?

The commenter states that any Model TB airplane with a properly maintained exhaust system should not have a problem with high levels of carbon monoxide entering the cockpit. The commenter has accumulated over 1,200 hours time-in-service and 1,000 landings, including slow and normal flight conditions, on an affected airplane and has not experienced high levels of carbon monoxide in the cockpit. The commenter believes AD action is not necessary.

What Is FAA's Response to the Concern?

We do not concur that AD action is not necessary. We acknowledge that some airplanes may go long periods of time without carbon monoxide problems. However, we continue to receive reports of accident investigations where carbon monoxide poisoning of the crew was a contributor to the accident. Therefore, we have not changed the final rule AD based on this comment.

FAA's Determination

What Is FAA's Final Determination on This Issue?

We carefully reviewed all available information related to the subject presented above and determined that air safety and the public interest require the adoption of the rule as proposed except for the changes discussed above and minor editorial questions. We have determined that these changes and minor corrections:

—Provide the intent that was proposed in the NPRM for correcting the unsafe condition; and

—Do not add any additional burden upon the public than was already proposed in the NPRM.

Cost Impact

How Many Airplanes Does this AD Impact?

We estimate that this AD affects 13 airplanes in the U.S. registry.

What Is the Cost Impact of This AD on Owners/Operators of the Affected Airplanes?

We estimate the following costs to accomplish the modification:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
3 workhours × $60 = $180.	$260.	$440.	$440 × 13 = $5,720.

Regulatory Impact

Does This AD Impact Various Entities?

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

Does This AD Involve a Significant Rule or Regulatory Action?

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the 2 criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. FAA amends § 39.13 by adding a new AD to read as follows:

2002–20–04 SOCATA—Groupe AEROSPATIALE: Amendment 39–12899; Docket No. 2002–CE–16–AD.

(a) *What airplanes are affected by this AD?* This AD affects Model TB 21 airplanes, serial numbers 500 through 2080, 2091, and 2101, that are certificated in any category.

(b) *Who must comply with this AD?* Anyone who wishes to operate any of the airplanes identified in paragraph (a) of this AD must comply with this AD.

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent high levels of carbon monoxide from entering the cockpit during certain flight configurations, which could result in the pilot becoming incapacitated or impairing his/her judgement. Such a condition could lead to the pilot not being able to make critical flight safety decisions and result in loss of control of the airplane.

(d) *What actions must I accomplish to address this problem?* To address this problem, you must accomplish the following:

Actions	Compliance	Procedures
(1) Install a part number (P/N) TB 21 9600200000 exhaust extension to the exhaust pipe. This installation is Modification No. MOD.178.	Within the next 50 hours time-in-service (TIS) after November 18, 2002 (the effective date of this AD).	In accordance with Socata TB Aircraft Mandatory Service Bulletin SB 10–126 78, dated November 2001, and the applicable maintenance manual.
(2) Do not install, on any affected airplane, any of the following components without incorporating Modification No. MOD.178 as required by paragraph (d)(1) of this AD:.	As of November 18, 2002 (the effective date of this AD).	Not applicable.
(i) Exhaust installation assemblies P/N TB21 56001000, P/N TB21 56001005, or P/N TB21 5600100501; or		
(ii) Turbo exhaust tubes P/N TB21 56001001, P/N TB21 56001006, or P/N TB21 5600100601.		

(e) *Can I comply with this AD in any other way?* You may use an alternative method of compliance or adjust the compliance time if:

(1) Your alternative method of compliance provides an equivalent level of safety; and

(2) The Standards Office Manager, Small Airplane Directorate, approves your alternative. Submit your request through an FAA Principal Maintenance Inspector, who may add comments and then send it to the Standards Office Manager.

Note 1: This AD applies to each airplane identified in paragraph (a) of this AD, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if you have not eliminated the unsafe condition, specific actions you propose to address it.

(f) *Where can I get information about any already-approved alternative methods of compliance?* Contact Karl Schletzbaum, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4146; facsimile: (816) 329–4090.

(g) *What if I need to fly the airplane to another location to comply with this AD?* The FAA can issue a special flight permit under sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate your airplane to a location where you can accomplish the requirements of this AD. No passengers are allowed for this flight.

(h) *Are any service bulletins incorporated into this AD by reference?* Actions required by this AD must be done in accordance with Socata TB Aircraft Mandatory Service Bulletin SB 10–126 78, dated November 2001. The Director of the Federal Register approved this incorporation by reference under 5 U.S.C. 552(a) and 1 CFR part 51. You may get copies from SOCATA Groupe AEROSPATIALE, Customer Support, Aerodrome Tarbes-Ossun-Lourdes, BP 930—F65009 Tarbes Cedex, France; telephone: 011 33 5 62 41 73 00; facsimile: 011 33 5 62 41 76 54; or the Product Support Manager, SOCATA Groupe AEROSPATIALE, North Perry Airport, 7501 Pembroke Road, Pembroke Pines, Florida 33023; telephone: (954) 893–1400; facsimile: (954) 964–4141. You may view copies at the FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in French AD 2001–610(A), dated December 12, 2001.

(i) *When does this amendment become effective?* This amendment becomes effective on November 18, 2002.

Issued in Kansas City, Missouri, on September 20, 2002.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 02–24687 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–37–AD; Amendment 39–12901; AD 2002–20–05]

RIN 2120–AA64

Airworthiness Directives; Breeze Eastern Aerospace Rescue Hoists

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), that is applicable to certain Breeze Eastern Aerospace rescue hoists. This amendment requires a one-time inspection of the mounting brackets for cracks, and, if necessary, replacement with serviceable parts. This amendment is prompted by reports of cracked mounting brackets. The actions specified by this AD are intended to prevent mounting bracket cracks, which could result in mounting bracket failure and separation of the rescue hoist from the helicopter.

DATES: Effective November 7, 2002. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Breeze Eastern Aerospace, 700 Liberty Avenue, Union, NJ 07083; telephone (908) 686–4000; fax (908) 686–9292. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA.

FOR FURTHER INFORMATION CONTACT: Serge Napoleon, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth Street, Third Floor, Valley Stream, NY 11581–1200; telephone (516) 256–7512; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that is applicable to certain Breeze Eastern Aerospace rescue hoists was published in the **Federal Register** on June 20, 2002 (67 FR 43566). That action proposed to require a one-time inspection of the mounting brackets for cracks, and, if necessary, replacement with serviceable parts in accordance with Breeze Eastern Aerospace Customer Advisory Bulletin CAB–100–56, dated November 11, 1997.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Economic Analysis

There are approximately 300 hoists of the affected design in the worldwide fleet. The FAA estimates that 100 hoists installed on helicopters of U.S. registry would be affected by this AD, that it would take approximately 2 work hours per hoist to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $35 per hoist. Based on these figures, the total cost of the AD to U.S. operators is estimated to be $15,500.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–20–05 Breeze Eastern Aerospace: Amendment 39–12901. Docket No. 98–ANE–37–AD.

Applicability: This airworthiness directive (AD) is applicable to Breeze Eastern Aerospace rescue hoists series BL–16600, excluding BL–16600–160. These hoists are installed on, but not limited to Augusta A109, Bell 206, Bell 222, Bell 407, Eurocopter France AS332, McDonnell Douglas MD–500, and Sikorsky S–61 helicopters.

Note 1: This AD applies to each hoist identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For hoists that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Compliance with this AD is required as indicated, unless already done.

To prevent mounting bracket cracks, which could result in mounting bracket failure and separation of the rescue hoist from the helicopter, do the following:

(a) Before the next usage of the rescue hoist after the effective date of this AD, perform a one-time inspection for mounting bracket cracks, and, if necessary, replace with serviceable parts, in accordance with Breeze Eastern Customer Aerospace Advisory Bulletin CAB–100–56, dated November 11, 1997.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (NYACO). Operators must submit their request through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the NYACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the

Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the helicopter to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated By Reference

(d) The inspection must be done in accordance with Breeze Eastern Aerospace Customer Advisory Bulletin CAB–100–56, dated November 11, 1997.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Breeze Eastern Aerospace, 700 Liberty Avenue, Union, NJ 07083; telephone (908) 686–4000; fax (908) 686–9292. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on November 7, 2002.

Issued in Burlington, Massachusetts, on September 25, 2002.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 02–24957 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–SW–40–AD; Amendment 39–12896; AD 2002–15–51]

RIN 2120–AA64

Airworthiness Directives; Sikorsky Aircraft Corporation Model S76A, B, and C Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 2002–15–51, sent previously to all known U.S. owners and operators of the specified Sikorsky Aircraft Corporation (Sikorsky) helicopters by individual letters. This AD requires, before further flight, identifying and removing any main rotor blade (blade) that has been damaged by lightning and any blade with an unclear service history. This AD is prompted by the failure of a blade due to lightning strike damage. The actions specified by this AD are intended to prevent failure of a blade and subsequent loss of control of the helicopter.

DATES: Effective October 18, 2002, to all persons except those persons to whom it was made immediately effective by Emergency AD 2002–15–51, issued on July 26, 2002, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 18, 2002.

Comments for inclusion in the Rules Docket must be received on or before December 2, 2002.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2002–SW–40–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: *9-asw-adcomments@faa.gov.*

The applicable service information may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard Noll, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7160, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: On July 26, 2002, the FAA issued Emergency AD 2002–15–51, for the specified Sikorsky model helicopters, which requires, before further flight, reviewing the blade service records and identifying and removing any blade damaged by lightning or any blade with an unclear service history. That action was prompted by the failure of a blade due to lightning strike damage. This condition, if not corrected, could result in blade failure and subsequent loss of control of the helicopter.

The FAA has reviewed Sikorsky Alert Service Bulletin No. 76–65–55A, dated July 25, 2002 (ASB). The ASB specifies reviewing the component log cards or, if necessary, other maintenance and operational records or the service history to determine if a blade has been damaged by a lightning strike, either in flight or on the ground. If the records indicate that a blade has been damaged by a lightning strike, the ASB specifies removing it from service before the next flight. If the service history cannot be determined, the ASB specifies removing the blade before the next flight.

Since the unsafe condition described is likely to exist or develop on other specified model helicopters of these same type designs, the FAA issued Emergency AD 2002–15–51 to prevent failure of a blade and subsequent loss of control of the helicopter. The AD requires the following before further flight:

- Reviewing the records for damage to a blade due to a lightning strike.
- Removing any blade that has been damaged by lightning.
- Removing any blade if the blade service history cannot be determined.
- Removing any blade with lightning strike damage.

The actions must be accomplished in accordance with the ASB described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity and controllability of the helicopter. Therefore, reviewing the records for lightning strike damage, removing any blade damaged by lightning, and removing any blade if the blade service history is unclear are required before further flight, and this AD must be issued immediately.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on July 26, 2002, to all known U.S. owners and operators of the specified Sikorsky model helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to 14 CFR 39.13 to make it effective to all persons.

The FAA estimates that this AD will affect 150 helicopters of U.S. registry and will take approximately 2 work hours per helicopter to accomplish the required actions at an average labor rate of $60 per work hour. Required parts will cost approximately $102,640 per helicopter. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $15, 414,000.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are

invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2002–SW–40–AD.'' The postcard will be date stamped and returned to the commenter.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–15–51 Sikorsky Aircraft Corporation: Amendment 39–12896. Docket No. 2002–SW–40–AD.

Applicability: Model S–76A, B, and C helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required before further flight, unless accomplished previously.

To prevent failure of a main rotor blade (blade) and subsequent loss of control of the helicopter, accomplish the following:

(a) Review the blade service records and other records in accordance with the Accomplishment Instructions, paragraphs 3.A.(1), (2), and (3), of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–55A, dated July 25, 2002, for evidence of damage to a blade due to a lightning strike. Before further flight, remove any blade identified as having been damaged by lightning.

(b) Remove blades, serial number A086–00167, 00429, 00798, 00999, 01165, 01168, 01291, and 02504, which are known to have sustained lightning damage.

(c) If the blade service history cannot be determined, remove the blade from service before further flight.

(d) After the effective date of this AD, should a blade be subjected to lightning strike damage, remove the blade from service before the next flight.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Boston Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston ACO. Blades removed from service in accordance with this AD may be returned to service under a process approved by the Manager, Boston ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston ACO.

(f) Special flight permits will not be issued.

(g) Reviewing the blades service records and other records shall be done in accordance with the Accomplishment Instructions, paragraphs 3.A.(1), (2), and (3) of Sikorsky Aircraft Corporation Alert Service Bulletin No. 76–65–55A, dated July 25, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Sikorsky Aircraft Corporation, Attn: Manager, Commercial Tech Support, 6900 Main Street, Stratford, Connecticut 06614, phone (203) 386–3001, fax (203) 386–5983. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on October 18, 2002, to all persons except those persons to whom it was made immediately effective by Emergency AD 2002–15–51, issued July 26, 2002, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on September 18, 2002.

Eric D. Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–24994 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–SW–73–AD; Amendment 39–12897; AD 2002–20–02]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, A Division of Textron Canada Model 222, 222B, 222U, 230, and 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified Bell Helicopter Textron, A Division of Textron Canada (BHTC), model helicopters that requires removing sealant from the forward tooling hole in the right-hand upper fuel enclosure area. This amendment is prompted by the determination that fuel or water could accumulate in the right-hand upper fuel enclosure. The actions specified by this AD are intended to prevent accumulation of fuel in the right-hand upper fuel enclosure area, a fire, and a subsequent forced landing.

DATES: Effective November 7, 2002.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 7, 2002.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, A Division of Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ed Cuevas, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5355, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for BHTC Model 222, 222B, 222U, 230, and 430 helicopters, was published in the **Federal Register** on April 30, 2002 (67 FR 21185). That action proposed to require removing sealant from the forward tooling hole in the right-hand upper fuel enclosure area.

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 222, 222B, 222U, 230, and 430 helicopters. Transport Canada advises that a condition exists that can result in an accumulation of fuel in the right-hand upper fuel enclosure area.

BHTC has issued:

- Bell Helicopter Textron Alert Service Bulletin (ASB) No. 222–01–89, for Model 222 helicopters, serial numbers (S/N) 47006 through 47089, and Model 222B helicopters, S/N 47131 through 47156;
- ASB No. 222U–01–60, for Model 222U helicopters, S/N 47501 through 47574;
- ASB No. 230–01–20, for Model 230 helicopters, S/N 23001 through 23038; and
- ASB No. 430–01–21, for Model 430 helicopters, S/N 49001 through 49079.

All of the ASB's are dated February 7, 2001. All of these ASB's specify procedures for removing the sealant from the existing forward tooling hole located in the panel assembly to provide enclosure drainage. Transport Canada classified these ASB's as mandatory and issued AD No. CF–2001–22, dated May 24, 2001, to ensure the continued airworthiness of these helicopters in Canada.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with two changes. The manufacturer's name was incorrectly stated in the notice, and is corrected in this AD. Also, the name of the FAA employee to contact for further information is changed in this AD. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 151 helicopters of U.S. registry will be affected by this AD, that it will take approximately 5 work hours per helicopter to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $45,300.

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2002–20–02 Bell Helicopter Textron, A Division of Textron Canada: Amendment 39–12897. Docket No. 2001–SW–73–AD.

Applicability: Model 222 helicopters, serial numbers (S/N) 47006 through 47089; Model 222B helicopters, S/N 47131 through 47156; Model 222U helicopters, S/N 47501 through 47574; Model 230 helicopters, S/N 23001 through 23038; and Model 430 helicopters, S/N 49001 through 49079, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required at the next annual or 100-hour inspection, whichever occurs first, unless accomplished previously.

To prevent accumulation of fuel in the right-hand upper fuel enclosure area, a fire, and a subsequent forced landing, accomplish the following:

(a) Remove the sealant from the forward tooling hole in the right-hand upper fuel enclosure area in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin

(ASB) No. 222–01–89, for the Model 222 helicopters and Model 222B helicopters; ASB No. 222U–01–60, for the Model 222U helicopters; ASB No. 230–01–20, for the Model 230 helicopters; and ASB No. 430–01–21, for the Model 430 helicopters, all dated February 7, 2001.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(d) The sealant removal shall be done in accordance with the Accomplishment Instructions in Bell Helicopter Textron Alert Service Bulletin (ASB) No. 222–01–89, for the Model 222 helicopters and Model 222B helicopters; ASB No. 222U–01–60, for the Model 222U helicopters; ASB No. 230–01–20, for the Model 230 helicopters; and ASB No. 430–01–21, for the Model 430 helicopters, all dated February 7, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron, A Division of Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec J7J1R4, telephone (450) 437–2862 or (800) 363–8023, fax (450) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on November 7, 2002.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–2001–22, dated May 24, 2001.

Issued in Fort Worth, Texas, on September 20, 2002.

Eric D. Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 02–24991 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–119]

Drawbridge Operation Regulations; Hobe Sound bridge (SR 708), Atlantic Intracoastal Waterway, mile 996.0, Hobe Sound, Martin County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District has approved a temporary deviation from the regulations governing the operation of the Hobe Sound (SR 708) bridge, at Hobe Sound, across the Atlantic Intracoastal Waterway, mile 996.0 in Hobe Sound, Florida. This deviation will allow the bridge to only open a single leaf of the bridge from 8 a.m. until 5 p.m. on October 9, 2002 and October 10, 2002. Double-leaf openings will be available with a two-hour advance notice to the bridge tender. This temporary deviation is required to allow the bridge owner to safely complete emergency repairs.

DATES: This deviation is effective from 8 a.m. on October 9, 2002 until 5 p.m. on October 10, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–02–119] and are available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Manager, Seventh Coast Guard District, Bridge Branch at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The existing regulations for the Hobe Sound (SR 708) bridge in 33 CFR 117.5, require the bridge to open on signal. Martin County notified the Coast Guard on September 8, 2002, that they needed to operate a single-leaf of the drawbridge to safely effect emergency repairs. A double-leaf opening will be available with two-hours advance notice provided to the bridge tender.

The Commander, Seventh Coast Guard District has granted a temporary deviation from the operating requirements listed in 33 CFR 117.5 to complete repairs to the bridge. Under this deviation, the Hobe Sound bridge need only open a single leaf from 8 a.m. until 5 p.m. on October 9, 2002 and October 10, 2002. A double-leaf opening will be available with two-hours advance notice provided to the bridge tender.

Dated: September 25, 2002.

Greg Shapley,

Chief, Bridge Administration, Seventh Coast Guard District.

[FR Doc. 02–25087 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD07–02–120]

Drawbridge Operation Regulations; Gasparilla Island Causeway Swingbridge, Gulf Intracoastal Waterway, Boca Grande, Charlotte County, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Seventh Coast Guard District, has approved a temporary deviation from the regulations governing the operation of the Gasparilla Island Causeway Swingbridge, across the Gulf Intracoastal Waterway, mile 34.3, at Boca Grande, Florida. This deviation allows the bridge to remain in the closed position from 7 p.m. on October 14, 2002, until 7 a.m. on October 15, 2002, and from 7 p.m. on October 15, 2002 until 7 a.m. on October 16, 2002. This temporary deviation is required to allow the bridge owner to safely complete emergency replacement of the bridge couplings.

DATES: This deviation is effective from 7 p.m. on October 14, 2002 until 7 a.m. on October 16, 2002.

ADDRESSES: Material received from the public, as well as documents indicated in this preamble as being available in the docket [CGD07–02–120] will become part of this docket and will be available for inspection or copying at Commander (obr), Seventh Coast Guard District, 909 S.E. 1st Avenue, Room 432, Miami, FL 33131 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Dragon, Project Officer, Seventh Coast Guard District, Bridge Section at (305) 415–6743.

SUPPLEMENTARY INFORMATION: The existing regulations for the Gasparilla Island Causeway Swingbridge in 33 CFR

117.287(a–1), requires the swingbridge to open on signal; except that from January 1 to May 31, from 7 a.m. to 5 p.m., the draw need open only on the hour, quarter hour, half hour, and three quarter hour.

The Gasparilla Island Bridge Authority notified the Coast Guard on September 13, 2002 that they needed to close the bridge to vessel traffic for two twelve hour periods to effect emergency replacement of the couplings. The Commander, Seventh Coast Guard District has granted a temporary deviation from the operating requirements listed in 33 CFR 117.287(a–1) to complete repairs to the swingbridge. Under this deviation, the Gasparilla Island Causeway Swingbridge, mile 34.3 at Boca Grande, need not open to vessel traffic, from 7 p.m. on October 14, 2002 until 7 a.m. on October 15, 2002 and from 7 p.m. on October 15, 2002 until 7 a.m. on October 16, 2002.

Dated: September 26, 2002.

Greg Shapley,

Chief, Bridge Administration Branch, Seventh Coast Guard District.

[FR Doc. 02–25190 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP New Orleans–02–005]

RIN 2115—AA97

Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent moving security zones around cruise ships entering and departing the Lower Mississippi River (LMR) from the Southwest Pass sea buoy to mile marker 96.0. These security zones are needed for the safety and security of these vessels. Entry into these zones is prohibited to all persons and vessels unless authorized by the Captain of the Port New Orleans or designated representative.

DATES: This rule is effective beginning 8 a.m. October 15, 2002.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of [COTP New Orleans-02–005] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, LA, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ensign Matthew Dooris, Marine Safety Office New Orleans, Port Waterways Management, at (504) 589–4251.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On June 11, 2002, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled ''Security Zone; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA'', in the **Federal Register** (67 FR 39924). We received no comments on the proposed rule. No public hearing was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. National security and intelligence officials continue to warn that future terrorist attacks against United States interests are likely. The temporary final rule published in the **Federal Register** on June 11, 2002 (67 FR 39853) expires on October 15, 2002. When the temporary rule expires, this final rule replaces it. Any delay in making this final rule effective would be contrary to the public interest because action is necessary to protect against the possible loss of life, injury, or damage to property.

Background and Purpose

On September 11, 2001, both towers of the World Trade Center and the Pentagon were attacked by terrorists. National security and intelligence officials have warned that future terrorist attacks against civilian targets may be anticipated. In response to these terrorist acts, heightened awareness and security of our ports and harbors and the vessels that transit them is necessary. Due to the increased safety and security concerns surrounding the transit of cruise ships, the Captain of the Port, New Orleans established temporary security zones around these vessels [COTP New Orleans-02–004]. The temporary final rule was published June 11, 2002 in the **Federal Register** (67 FR 39853) and remains in effect until 8 a.m. October 15, 2002. We received no comments concerning this temporary final rule.

Advisories regarding threats of terrorism continue. The Captain of the Port New Orleans has determined that there is a need for these security zones to remain in effect indefinitely. The Captain of the Port New Orleans is establishing permanent security zones around these vessels as they transit between Southwest Pass and mile marker 96.0 LMR.

Moving security zones are established when a cruise ship passes the Southwest Pass Entrance Lighted Buoy ''SW'' inbound and continues through its transit, mooring, and return transit until it passes the sea buoy outbound. During this time, no vessel may operate within 500 yards of a cruise ship unless operating at the minimum safe speed required to maintain a safe course. Except as described in this rule, no person or vessel is permitted to enter within 100 feet of a cruise ship unless expressly authorized by the Captain of the Port New Orleans. Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 feet of a cruise ship while it is in transit.

The establishment of moving security zones described in this rule will be announced to mariners via Marine Safety Information Broadcast.

For the purpose of this final rule the term ''cruise ship'' is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories. This definition covers passenger vessels that must comply with 33 CFR parts 120 and 128..

Discussion of Comments and Changes

We received no comments on the proposed rule or temporary final rule. The inner perimeter of the security zone was changed from 100 yards to 100 feet to allow for the passage of other vessels at bends and other narrow areas of the Lower Mississippi River. Because this change is less restrictive than the proposed rule we did not issue a supplemental NPRM.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory and Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and

procedures of DOT is unnecessary. The impacts on routine navigation are expected to be minimal as the zones will only impact navigation for a short period of time and the size of the zones allows for the transit of most vessels with minimal delay.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601—612), we considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit Southwest Pass and the Lower Mississippi River, to mile marker 96.0. These security zones will not have a significant economic impact on a substantial number of small entities. The size of the security zones allow for vessels to safely transit around or through the zones with minimal interference.

If you are a small business entity and are significantly affected by this regulation please contact ENS Matthew Dooris, U.S. Coast Guard Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, Louisiana at (504) 589–4251.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offered to assist small entities in understanding the rule so they could better evaluate its effects on them and participate in the rulemaking processes.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

The Coast Guard considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Add § 165.812 to read as follows:

§ 165.812 Security Zones; Lower Mississippi River, Southwest Pass Sea Buoy to Mile Marker 96.0, New Orleans, LA.

(a) *Location.* Within the Lower Mississippi River and Southwest Pass, moving security zones are established around all cruise ships between the Southwest Pass Entrance Lighted Buoy ''SW'', at approximate position 28°52′42″N, 89°25′54″W [NAD 83] and Lower Mississippi River mile marker

96.0 in New Orleans, Louisiana. These moving security zones encompass all waters within 500 yards of a cruise ship. These zones remain in effect during the entire transit of the vessel and continue while the cruise ship is moored or anchored.

(b) *Regulations.* (1) Entry of persons and vessels into these zones is prohibited unless authorized as follows.

(i) Vessels may enter within 500 yards but not closer than 100 feet of a cruise ship provided they operate at the minimum speed necessary to maintain a safe course.

(ii) No person or vessel may enter within 100 feet of a cruise ship unless expressly authorized by the Coast Guard Captain of the Port New Orleans or his designated representative.

(iii) Moored vessels or vessels anchored in a designated anchorage area are permitted to remain within 100 feet of a cruise ship while it is in transit.

(2) Vessels requiring entry within 500 yards of a cruise ship that cannot slow to the minimum speed necessary to maintain a safe course must request express permission to proceed from the Captain of the Port New Orleans or his designated representative.

(3) For the purpose of this rule the term ''cruise ship'' is defined as a passenger vessel over 100 gross tons, carrying more than 12 passengers for hire, making a voyage lasting more than 24 hours, any part of which is on the high seas, and for which passengers are embarked or disembarked in the United States or its territories.

(4) The Captain of the Port New Orleans will inform the public of the moving security zones around cruise ships via Marine Safety Information Broadcasts.

(5) To request permission as required by these regulations contact ''New Orleans Traffic'' via VHF Channels 13/67 or via phone at (504) 589–2780 or (504) 589–6261.

(6) All persons and vessels within the moving security zones shall comply with the instructions of the Captain of the Port New Orleans and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

(c) *Authority.* In addition to 33 U.S.C. 1231, the authority for this section includes 33 U.S.C. 1226.

Dated: September 18, 2002.

R.W. Branch,

Captain, U.S. Coast Guard, Captain of the Port New Orleans.

[FR Doc. 02–25086 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

[Docket No. 020606141–2212–02; I.D. 031402C]

RIN 0648–AN10

Stone Crab Fishery of the Gulf of Mexico; Amendment 7

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement Amendment 7 to the Fishery Management Plan for the Stone Crab Fishery of the Gulf of Mexico (FMP). This final rule establishes a Federal trap limitation program for the commercial stone crab fishery in the exclusive economic zone (EEZ) off Florida's west coast, including the area off Monroe County, FL (i.e., the management area) that complements the stone crab trap limitation program implemented by the Florida Fish and Wildlife Conservation Commission (FFWCC). The Federal program recognizes the FFWCC's license, trap certificates, and trap tags for use in the EEZ in lieu of a Federal permit, but would not require them in addition to a Federal permit. Under the Federal program, a person who meets the Federal eligibility requirements and who does not possess the license and trap certificates required by the FFWCC could be issued a Federal vessel permit, a trap certificate, and trap tags valid in the EEZ only. Amendment 7 also revises the Protocol and Procedure for an Enhanced Cooperative Management System (Protocol) consistent with Florida's constitutional revisions that transferred authority for implementation of fishery-related rules from the Governor and Cabinet to the FFWCC. The intended effect is to establish a Federal program that complements and enhances the effectiveness of the FFWCC's trap limitation program and, thereby, helps to reduce overcapitalization in the stone crab fishery.

DATES: This final rule is effective November 4, 2002, except for amendments to § 654.4 (a), which is effective December 2, 2002.

ADDRESSES: Comments regarding the collection-of-information requirements contained in this final rule should be sent to Robert Sadler, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of a supplemental environmental assessment and an expanded Finding of No Significant Impact statement, prepared by NMFS, are available from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702; telephone: 727–570–5305; fax: 727–570–5583.

FOR FURTHER INFORMATION CONTACT: Mark Godcharles, telephone: 727–570–5305, fax: 727–570–5583, e-mail: Mark.Godcharles@noaa.gov.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 654.

On April 18, 2002, NMFS announced the availability of Amendment 7 and requested public comment on it (67 FR 19155). A proposed rule to implement the measures in Amendment 7, with a request for comments, was published on June 25, 2002 (67 FR 42744). NMFS approved the amendment on July 17, 2002. The background and rationale for the measures in the amendment and proposed rule are contained in the preamble to the proposed rule and are not repeated here.

Comments and Responses

NMFS received two comments from the FFWCC on the proposed rule.

Comment: The FFWCC's first comment expressed support for the proposed rule and urged that NMFS implement the rule as soon as possible. The FFWCC subsequently submitted a comment requesting that the rule be revised to clarify explicitly that transfer of trap certificates and trap tags is prohibited, except for use on another vessel owned by the same entity that qualified for them.

Response: NMFS has revised § 654.4(a)(9), consistent with the intent of the proposed rule, that trap certificates and annual trap tags are not transferable or assignable, except that an owner of a permitted vessel may request that they be transferred for use on another vessel owned by the same entity. NMFS will implement the trap limitation program specified in this final rule as soon as possible, consistent with providing a reasonable time period for permit application and issuance of permits, certificates, and trap tags.

Change From the Proposed Rule

In § 654.3, paragraph (a) has been revised to correct the outdated cross reference to § 620.3, which should read § 600.705, and to eliminate the cross reference to paragraph (d) which is removed by this final rule.

In § 654.4(a), introductory text, the effective date for the permit requirement has been revised to read 60 days after date of publication in the **Federal Register** rather than October 1, 2002. It was not possible to publish this final rule in time to accommodate permit application and issuance procedures prior to the previous October 1, 2002 deadline.

As described above, § 654.4(a)(9) has been revised to clarify, consistent with the intent of the proposed rule, that trap certificates and annual trap tags are not transferable or assignable, except that an owner of a permitted vessel may request that they be transferred for use on another vessel owned by the same entity.

Classification

The Administrator, Southeast Region, NMFS determined that Amendment 7, which this final rule implements, is necessary for the conservation and management of the stone crab fishery of the Gulf of Mexico and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding the economic impacts of this action. As a result, no regulatory flexibility analysis was prepared.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection-of-information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule contains five collection-of-information requirements subject to the PRA. Three of the collection-of-information requirements are new--documentation of stone crab landings, a commercial vessel permit application, and information to support an appeal of a denial of eligibility for a commercial vessel permit. These collection-of-information requirements have been approved by OMB under OMB control number 0648–0205. The other two collection-of-information requirements, vessel and gear identification, have been approved by OMB under control numbers 0648–0358 and 0648–0359, respectively. Public reporting burdens for these five collection-of-information requirements are estimated to average 2 hours, 20 minutes, 5 hours, 45 minutes, and 7 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding these burden estimates, or any other aspect of the data collection requirements, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 654

Fisheries, Fishing, Incorporation by reference.

Dated: September 25, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 654 is amended as follows:

50 CFR Chapter VI

PART 654—STONE CRAB FISHERY OF THE GULF OF MEXICO

1. The authority citation for part 654 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 654.2, the definition of ''Regional Director'' is removed; a definition of ''Regional Administrator'' is added in alphabetical order; and the definition of ''Stone crab'' is revised to read as follows:

§ 654.2 Definitions.

* * * * *

Regional Administrator (RA) for the purposes of this part, means the Administrator, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, or a designee.

Stone crab means *Menippe mercenaria*, *M. adina*, or their interbreeding hybrids, or a part thereof.

3. In § 654.3, paragraph (d) is removed and paragraph (a) is revised to read as follows:

§ 654.3 Relation to other laws.

(a) The relation of this part to other laws is set forth in § 600.705 of this chapter and paragraphs (b) and (c) of this section.

* * * * *

4. In § 654.4, the section heading is revised and text is added to read as follows:

§ 654.4 Trap limitation program.

The provisions of this section establish a Federal stone crab trap limitation program in the management area that complements the stone crab trap limitation program implemented by the Florida Fish and Wildlife Conservation Commission (FFWCC). The Federal program requires issuance of a commercial vessel permit, a trap certificate, and annual trap tags. A person in the management area who is in compliance with the FFWCC trap limitation program is exempt from the requirements of the Federal trap limitation program specified in this section.

(a) *Commercial vessel permit requirements.* Effective December 2, 2002, for a person aboard a vessel, except a person who is in compliance with the FFWCC stone crab trap limitation program, to possess or use a stone crab trap, possess more than 1 gallon (4.5 L) of stone crab claws, or sell stone crab claws in or from the management area, a valid Federal commercial vessel permit for stone crab must have been issued to the vessel and must be on board.

(1) *Eligibility for a commercial vessel permit.* The owner of a vessel is eligible to receive a Federal commercial vessel permit for stone crab if the owner provides documentation as specified in paragraph (a)(2) of this section substantiating his or her landings of a minimum of 300 lb (136 kg) of stone crab claws harvested from the management area or Florida's state waters during at least one of the stone crab fishing seasons, October 15 through May 15, for 1995/1996 through 1997/1998. A person who has a valid stone crab trap certificate issued under the stone crab trap limitation program implemented by the FFWCC or a person whose Florida saltwater products license (SPL) has been suspended or revoked is not eligible for a Federal commercial vessel permit for stone crab.

(2) *Documentation of eligibility for a commercial vessel permit.* The only acceptable source of documentation of stone crab claws landed in Florida is landings documented by the Florida trip ticket system. To be creditable toward the 300–lb (136–kg) minimum

qualifying landings, Florida landings must be associated with a single Florida SPL. Landings of stone crab harvested from the management area or Florida's state waters but landed in a state other than Florida may be documented by dealer records. Such dealer records must definitively show the species known as stone crab and must include the vessel's name, official number, or other reference that provides a way of clearly identifying the vessel; dates and amounts of stone crab landings; and a sworn affidavit by the dealer confirming the accuracy and authenticity of the records. A sworn affidavit is an official written statement wherein the individual signing the affidavit affirms that the information presented is accurate and can be substantiated, under penalty of law. Documentation of landings are subject to verification by comparison with state, Federal, and other records and information. Submission of false documentation is a violation of the regulations in this part and may disqualify the owner from participation in the fishery.

(3) *Application for a commercial vessel permit.* Applications for a commercial vessel permit for stone crab are available from the RA. A vessel owner (in the case of a corporation, an officer or shareholder; in the case of a partnership, a general partner) who desires such a permit must submit an application, including documentation of stone crab landings as specified in paragraphs (a)(1) and (2) of this section, to the RA postmarked or hand-delivered not later than January 31, 2003. Failure to apply in a timely manner will preclude permit issuance even when the vessel owner meets the eligibility criteria for such permit.

(i) An applicant must provide the following:

(A) A copy of the vessel's valid USCG certificate of documentation or, if not documented, a copy of its valid state registration certificate.

(B) Vessel name and official number.

(C) Name, address, telephone number, and other identifying information of the vessel owner.

(D) Documentation of eligibility as specified in paragraphs (a)(1) and (2) of this section.

(E) The applicant's desired color code for use in identifying his or her vessel and buoys (white is not an acceptable color code).

(F) Number of traps authorized under § 654.4(b) that will be used and trap dimensions.

(G) Any other information concerning the vessel, gear characteristics, principal fisheries engaged in, or fishing areas, if specified on the application form.

(H) Any other information that may be necessary for the issuance or administration of the permit, if specified on the application form.

(ii) [Reserved]

(4) *Notification of incomplete application.* Upon receipt of an incomplete application, the RA will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days of the date of the RA's letter of notification, the application will be considered abandoned.

(5) *Change in application information.* The owner of a vessel with a commercial vessel permit must notify the RA within 30 days after any change in the application information specified in paragraph (a)(3)(i) of this section. The permit is void if any change in the information is not reported within 30 days.

(6) *Initial commercial vessel permit issuance.* (i) The RA will issue an initial commercial vessel permit for stone crab to an applicant if the applicant submits a complete application that complies with the requirements of paragraphs (a)(1), (2), and (3) of this section. An application is complete when all requested forms, information, and documentation have been received.

(ii) If the eligibility requirements specified in paragraphs (a)(1) and (2) of this section are not met, the RA will notify the vessel owner of such determination and the reasons for it not later than 30 days after receipt of the application.

(7) *Appeal of initial denial of a commercial vessel permit*—(i) *General procedure.* An applicant for a commercial vessel permit for stone crab who has complied with the application procedures in paragraph (a)(3) of this section and who initially has been denied such permit by the RA may appeal that decision to the RA. The appeal must be postmarked or hand-delivered to the RA not later than 60 days after the date of notification of the initial denial. An appeal must be in writing and must include copies of landing records relating to eligibility, such other reliable evidence upon which the facts related to issuance can be resolved, and a concise statement of the reasons the initial denial should be reversed or modified. An appeal constitutes the applicant's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Act for the RA to make available to the appellate officer(s) such confidential landings and other records as are pertinent to the matter under appeal. The applicant may request a hearing. The RA will appoint one or more appellate officers to review the appeal and make recommendations to the RA. The appellate officer(s) may recommend that the RA deny the appeal, issue a decision on the merits of the appeal if the records are sufficient to reach a final judgement, or conduct a hearing. The RA may affirm, reverse, modify, or remand the appellate officer(s) recommendation.

(ii) *Hearings.* If the RA determines that a hearing is necessary and appropriate, the RA or appellate officer(s) will notify the applicant of the place and date of the hearing. The applicant will be allowed 30 days after the date of the notification of the hearing to provide supplementary documentary evidence in support of the appeal.

(8) *Duration of a commercial vessel permit.* A commercial vessel permit remains valid for the period specified on it unless it is revoked, suspended, or modified pursuant to subpart D of 15 CFR part 904 or the vessel is sold.

(9) *Transferability of a commercial vessel permit, trap certificate, or annual trap tags.* A commercial vessel permit, trap certificate, or annual trap tags issued under this section are not transferable or assignable, except that an owner of a permitted vessel may request that the RA transfer the permit, trap certificate, and annual trap tags to another vessel owned by the same entity. To effect such a transfer, the owner must return the existing permit, trap certificate and annual trap tags to the RA along with an application for a commercial vessel permit for the replacement vessel. A commercial vessel permit, trap certificate or annual trap tags can not be leased.

(10) *Renewal of a commercial vessel permit.* A commercial vessel permit required by this section is issued on an annual basis. An owner whose permit is expiring will be mailed a notification by the RA approximately 2 months prior to expiration of the current permit. The notification will include a preprinted renewal application. A vessel owner who does not receive a notification of status of renewal of a permit by 45 days prior to expiration of the current permit must contact the RA. A permit that is not renewed or that is revoked will not be reissued. A permit is considered to be not renewed when an application for renewal is not received by the RA within 1 year of the expiration date of the permit.

(11) *Display of a commercial vessel permit.* A commercial vessel permit issued under this section must be carried on board the vessel. The operator of a vessel must present the permit for inspection upon the request of an authorized officer.

(12) *Sanctions and denials of a commercial vessel permit.* A commercial vessel permit issued pursuant to this section may be revoked, suspended, or modified, and a permit application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at subpart D of 15 CFR part 904.

(13) *Alteration of a commercial vessel permit.* A commercial vessel permit that is altered, erased, or mutilated is invalid.

(14) *Replacement of a commercial vessel permit.* A replacement permit may be issued. An application for a replacement permit is not considered a new application.

(15) *Fees.* A fee is charged for each application for initial issuance or renewal of a permit, for each request for replacement of such permit, and for each trap tag as required under this section. The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RA, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application, request for replacement, or request for trap tags.

(b) *Issuance of a trap certificate and annual trap tags.* The RA will issue a trap certificate and annual trap tags to each person who has been issued a Federal commercial vessel permit for stone crab. The number of trap tags issued will be determined, based upon the documentation of landings submitted consistent with § 654.4(a)(1), (2) and (3), by dividing that person's highest landings of stone crab claws during any one of the fishing seasons for 1995/1996, 1996/1997, or 1997/1998 by 5 lb (2.27 kg).

5. In § 654.6, introductory text is added and paragraphs (a) and (b) are revised to read as follows:

§ 654.6 Vessel and gear identification.

An owner or operator of a vessel for which a valid Federal commercial vessel permit for stone crab has been issued must comply with the vessel and gear identification requirements of this section. An owner or operator of a vessel in the management area who is in compliance with the stone crab trap limitation program and vessel and gear marking requirements implemented by the FFWCC is exempt from the requirements of this section.

(a) *Vessel identification.* An owner or operator of a vessel for which a valid Federal commercial vessel permit for stone crab has been issued must—

(1) *Display the vessel's official number*—(i) On the port and starboard sides of the deckhouse or hull and, for vessels over 25 ft (7.6 m) long, on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

(ii) In block arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background.

(iii) At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) long; at least 10 inches (25.4 cm) in height for vessels over 25 ft (7.6 m) long; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) long or less.

(2) *Display the color code assigned by the RA*—(i) On the port and starboard sides of the deckhouse or hull and, for vessels over 25 ft (7.6 m) long, on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft.

(ii) In the form of a circle permanently affixed to or painted on the vessel.

(iii) At least 18 inches (45.7 cm) in diameter for vessels over 65 ft (19.8 m) long; at least 10 inches (25.4 cm) in diameter for vessels over 25 ft (7.6 m) long; and at least 3 inches (7.6 cm) in diameter for vessels 25 ft (7.6 m) long or less.

(3) Keep the official number and the color code clearly legible and in good repair and ensure that no part of the fishing vessel, its rigging, fishing gear, or any other material on board obstructs the view of the official number or the color code from an enforcement vessel or aircraft.

(b) *Gear identification*—(1) *Traps.* A stone crab trap used by or possessed on board a vessel with a Federal commercial vessel permit for stone crab must have a valid annual trap tag issued by the RA attached.

(2) *Trap buoys.* A buoy must be attached to each stone crab trap or at each end of a string of traps. Each buoy must display the official number and the color code assigned by the RA so as to be easily distinguished, located, and identified.

(3) *Presumption of trap ownership.* A stone crab trap will be presumed to be the property of the most recently documented owner. This presumption will not apply to traps that are lost if the owner reports the loss within 15 days to the RA.

(4) *Unmarked traps or buoys.* An unmarked stone crab trap or a buoy deployed in the EEZ where such trap or buoy is required to be marked is illegal and may be disposed of in any appropriate manner by the Assistant Administrator or an authorized officer.

6. In § 654.7, paragraphs (a) and (g) are revised and paragraphs (p) and (q) are added to read as follows:

§ 654.7 Prohibitions.

* * * * *

(a) Falsify or fail to display and maintain vessel and gear identification, as required by § 654.6.

* * * * *

(g) Use or possess in the management area a stone crab trap that does not comply with the trap construction requirements as specified in § 654.22(a).

* * * * *

(p) Except for a person who is in compliance with the FFWCC stone crab trap limitation program, possess or use a stone crab trap, possess more than 1 gallon (4.5 L) of stone crab claws, or sell stone crab claws in or from the management area without a commercial vessel permit as specified in § 654.4(a).

(q) Falsify information on an application for a commercial vessel permit or submitted in support of such application as specified in § 654.4(a)(1) or (2).

7. Section 654.8 is revised to read as follows:

§ 654.8 Facilitation of enforcement.

See § 600.730 of this chapter.

8. Section 654.9 is revised to read as follows:

§ 654.9 Penalties.

See § 600.735 of this chapter.

§§ 654.1, 654.2, 654.7 [Amended]

9. In 50 CFR part 654 remove the words ''Magnuson Act'' and add in their place, the words, ''Magnuson-Stevens Act'' in the following places:

(a) Section 654.1(a);

(b) Section 654.2 introductory text; and

(c) Section 654.7(n).

§§ 654.20, 654.25, 654.26, 654.27 [Amended]

10. In 50 CFR part 654 remove the words ''Regional Director'' and add in their place, the words, ''Regional Administrator'' in the following places:

(a) Section 654.20(b)(2)(i);

(b) Section 654.25(b);

(c) Section 654.26; and(d) Section 654.27.

[FR Doc. 02–24945 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atomospheric Administration

50 CFR Part 660

[Docket No. 000622191–2104–02; I.D. 041700D]

RIN 0648–AO35

Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Measures to Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Correction to announcement of effectiveness of a collection-of-information requirement.

SUMMARY: This document contains a correction to a document that announced the effective date of a collection-of-information requirement that was published on September 10, 2002.

DATES: Effective October 10, 2002.

FOR FURTHER INFORMATION CONTACT: Alvin Z. Katekaru, Pacific Islands Area Office, NMFS, 808–973–2937.

SUPPLEMENTARY INFORMATION:

Background

The document announcing the effectiveness of a collection-of-information requirement for participants in the Hawaii-based longline limited access fishery, whereby in the event an endangered short-tailed albatross is accidentally hooked or entangled during fishing operations, NMFS or the U.S. Coast Guard or U.S. Fish and Wildlife Service must be notified immediately, was published in the **Federal Register** on September 10, 2002 (67 FR 57346). The document contained an incorrect effective date.

Correction

In the rule FR Doc. 02–22924, in the issue of Tuesday, September 10, 2002 (67 FR 57346), on page 57346, at the end of the last paragraph in the third column, change ''September 30, 2002'' to ''October 10, 2002''.

Dated: September 27, 2002.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 02–25172 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020628163–2221–02; 061302B]

RIN 0648–AP43

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fisheries; Annual Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues a regulation to implement the annual harvest guideline for Pacific mackerel in the U.S. exclusive economic zone off the Pacific coast. The Coastal Pelagic Species (CPS) Fishery Management Plan (FMP) and its implementing regulations require NMFS to set an annual harvest guideline for Pacific mackerel based on the formula in the FMP. The intended effect of this action is to conserve Pacific mackerel off the Pacific coast.

DATES: Effective November 4, 2002, until the 2003 annual specifications are effective, unless modified, superseded, or rescinded through a publication in the **Federal Register**.

ADDRESSES: The report Stock Assessment of Pacific Mackerel with Recommendations for the 2002–2003 Management Season may be obtained from Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: James J. Morgan, Southwest Region, NMFS, (562) 980–4036.

SUPPLEMENTARY INFORMATION: The FMP, which was implemented by publication of a final rule in the **Federal Register** on December 15, 1999 (64 FR 69888), divides management unit species into the categories of actively managed and monitored. Harvest guidelines of actively managed species (Pacific sardine and Pacific mackerel) are based on formulas applied to current biomass estimates. Biomass estimates are not calculated for species that are only monitored (jack mackerel, northern anchovy, and market squid).

At a public meeting each year, the biomass for each actively managed species is reviewed by the Pacific Fishery Management Council's (Council) CPS Management Team (Team). The biomass, harvest guideline, and status of the fisheries are then reviewed at a public meeting of the Council's CPS Advisory Subpanel (Subpanel). This information is also reviewed by the Council's Scientific and Statistical Committee (SSC). The Council reviews reports from the Team, Subpanel, and SSC, and then, after providing time for public comment, makes its recommendation to NMFS. The annual harvest guideline and season structure is published by NMFS in the **Federal Register** as soon as practicable before the beginning of the appropriate fishing season. The Pacific mackerel season begins on July 1 of each year and ends on June 30 the following year.

A public meeting of the Team took place at the Southwest Fisheries Science Center in La Jolla, California, on May 29, 2002 (67 FR 34434, May 14, 2002), where the biomass estimate and harvest guideline were reviewed. Based on the Team's review, a proposed rule was published on July 11, 2002 (67 FR 45952), soliciting public comment on a harvest guideline of 12,456 metric tons (mt) based on a biomass estimate of 77,516 mt. Public comment was also requested on how the season might be structured to minimize the impact of a low mackerel harvest on the harvest of other CPS. The public comment period ended on July 26, 2002. No comments were received.

The SSC and Subpanel meetings occurred in conjunction with the June 17–21, 2002, Council meeting in Foster City, California. During the Subpanel meeting, the Team calculated a revised biomass estimate by updating estimates of fishing mortality obtained since the Team meeting on May 29, 2002. A revised biomass of 77,892 mt and a revised harvest guideline of 12,535 mt was presented to the Subpanel.

The Subpanel reviewed the experience of the fishing industry during the 2001/2002 fishing season to develop a strategy for the 2002/2003 fishing season. With the goal of minimizing bycatch, which would likely occur if the Pacific mackerel season were closed and mackerel were mixed in schools of Pacific sardine, the Subpanel recommended a directed fishery of 9,500 mt, with 3,035 mt held in reserve. This would allow for an incidental harvest of mackerel in the sardine fishery. When 9,500 mt was landed, 40 percent by weight of Pacific mackerel could be landed in loads of any CPS until the reserve of 3,035 mt was attained.

At its meeting on June 21, 2002, the Council received reports from its Team, SSC, and Subpanel. Following public

comments, which supported the Subpanel's recommendation, the Council recommended to NMFS that there be a harvest guideline of 12,535 mt, based on the biomass of 77,892 mt. The Council also recommended that the season be structured as recommended by the Subpanel. Any harvest of Pacific mackerel after July 1, 2002, would be allocated toward the 2002/2003 harvest guideline.

A modified virtual population analysis stock assessment model is used to estimate the biomass of Pacific mackerel. The model employs both fishery dependent and fishery independent indices to estimate abundance. The biomass was calculated through the end of 2001, and then estimated for the fishing season that began on July 1, 2002, based on (1) the number of Pacific mackerel estimated to comprise each year class at the beginning of 2002, (2) modeled estimates of fishing mortality during 2001, (3) assumptions for natural and fishing mortality through the first half of 2002, and (4) estimates of age-specific growth. Based on this approach, the biomass for July 1, 2002, is 77,892 metric tons (mt). Applying the formula in the FMP results in a harvest guideline of 12,535 mt, which is lower than last year but similar to low harvest guidelines of recent years.

The formula in the FMP uses the following factors todetermine the harvest guideline:

1. *The biomass of Pacific mackerel.* For 2002, this estimate is 77,892 mt.

2. *The cutoff.* This is the biomass level below which no commercial fishery is allowed. The FMP established the cutoff level at 18,200 mt. The cutoff is subtracted from the biomass, leaving 59,692 mt.

3. *The portion of the Pacific mackerel biomass that is in U.S. waters.* This estimate is 70 percent, based on the historical average of larval distribution obtained from scientific cruises and the distribution of the resource obtained from logbooks of fish-spotters. Therefore, the harvestable biomass in U.S. waters is 70 percent of 59,692 mt, that is, 41,784 mt.

4. *The harvest fraction.* This is the percentage of thebiomass above 18,200 mt that may be harvested. The FMP established the harvest fraction at 30 percent. The harvest fraction is multiplied by the harvestable biomass in U.S. waters (41,784 mt), which is 12,535 mt.

Information on the fishery and the stock assessment are found in the report Stock Assessment of Pacific Mackerel with Recommendations for the 2002–2003 Management Season, which may be obtained at the address above (see **ADDRESSES**).

In view of the above, the following determinations have been made:

1. Based on the estimated biomass of 77,892 mt and the formula in the FMP, a harvest guideline of 12,535 mt has been calculated and will be in effect for the fishery which began on July 1, 2002. This harvest guideline is available for harvest for the fishing season that began at 12:01 a.m. on July 1, 2002, and continues through June 30, 2003.

2. There will be a directed fishery of at least 9,500 mt, and 3,035 mt of the harvest guideline will be utilized for incidental landings following the closure of the directed fishery.

NMFS will announce in the **Federal Register** closure of the directed fishery, after which no more than 40 percent by weight of a landing of Pacific sardine, northern anchovy, jack mackerel, or market squid may consist of Pacific mackerel, except that up to 1 mt of Pacific mackerel may be landed without landing any other coastal pelagic species. The fishery will be monitored, and if a sufficient amount of the harvest guideline remains before June 30, 2003, the directed fishery will be reopened. The goal is to achieve the harvest guideline and minimize the impact on other coastal pelagic fisheries.

Classification

These final specifications are issued under the authority of, and NMFS has determined that they are in accordance with, the Magnuson-Stevens Fishery Conservation and Management Act, the FMP, and the regulations implementing the FMP at 50 CFR part 660, subpart I.

This final rule has been determined to be not significant for purpose of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule for this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule. No comments were received regarding the economic impacts of this action. As a result, no regulatory flexibility analysis was prepared.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 30, 2002

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service

[FR Doc. 02–25170 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 67, No. 192
Thursday, October 3, 2002

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 121, 207, 208, 221, 250, 253, 256, 302, 380, 389, and 399

49 CFR Parts 27, 37, 40, 219, 376, 382, 653, and 654

[Docket No. OST–02–13179]

RIN 2105–AD16

Withdrawal of Proposed Rulemaking Actions; Nondiscrimination on the Basis of Age, Charter Transportation, Notice of Terms of Contract of Carriage Part 399—Statement of General Policy, Simplified Airline Counter Sign Notices, Rules of Practice in Board Proceedings—Fees and Charges for Special Services; and Statements of General Policy, Baggage Liability Notices in International Air Transportation, Price Advertising, Procedures for Transportation Workplace Drug Testing Programs, and Transportation for Individuals with Disabilities

AGENCY: Department of Transportation, Office of the Secretary.

ACTION: Withdrawal of notices of proposed rulemakings.

SUMMARY: This document withdraws the following rulemakings, proposed by the Office of the Secretary or the former Civil Aeronautics Board (CAB), that have been superseded by more recent rulemakings or other actions that make the proposed actions no longer necessary or appropriate: Nondiscrimination on the Basis of Age, Charter Transportation, Notice of Terms of Contract of Carriage Part 399—Statement of General Policy, Simplified Airline Counter Sign Notices, Rules of Practice in Board Proceedings—Fees and Charges for Special Services; and Statements of General Policy, Baggage Liability Notices in International Air Transportation, Price Advertising, Procedures for Transportation Workplace Drug Testing Programs, and Transportation for Individuals with Disabilities. This action is being taken on the Department's initiative in order to complete action or provide information on those that have been completed by other actions.

ADDRESSES: You may obtain a copy of this notice from the DOT public docket through the Internet at *http://dms.dot.gov,* docket number OST–02–13179. If you do not have access to the Internet, you may obtain a copy of the notice by United States mail from the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590. You must identify docket number OST–02–13179 and request a copy of the notice entitled ''Withdrawal of Proposed Rulemaking Actions.'' You may also review the public docket in person in the Docket office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office is on the plaza level of the Department of Transportation. Additionally, you can also get a copy of this document from the **Federal Register** Webster at *www.gpo.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Abdul-Wali, Office of the General Counsel, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–4723; fax: (202) 366–9313; e-mail: *Jennifer.Abdul-Wali@ost.dot.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Department has identified a number of notices of proposed rulemakings (NPRMs) that have remained open and on its Regulatory Agenda, often for considerable periods of time. By this notice, the Department is withdrawing each of them for the reasons stated below.

Withdrawal of Proposed Rules

The following is a list of proposed rules being withdrawn by this document:

1. Nondiscrimination on the Basis of Age, NPRM published by the CAB on September 26, 1979, under Docket No. 36639, RIN 2105–AA45, [44 FR 55383]. This NPRM proposed new rules to prohibit discrimination against air travelers on the basis of age and to implement the Age Discrimination Act of 1975.

Comments: The Department received comments from certain members of the Air Transport Association of America.

Reason for withdrawal: In view of current airline practices with respect to travel by the elderly, which are based on criteria set forth in the Age Discrimination Act of 1975, and the absence of complaints of discrimination based on age, there is no longer a need for this rulemaking.

2. Charter Transportation, NPRM published by the CAB on July 11, 1980, under Docket No. 37169, RIN 2105–AA40, [45 FR 46812]. This rule proposed to eliminate the clause in most charter contracts by which airlines exempt themselves from the obligation to return stranded charter passengers.

Comments: The Department received comments from certain airlines and the United States Tour Operators Association.

Reason for withdrawal: This proposal was superseded by an interpretive rule issued by the Civil Aeronautics Board (CAB) [ER–1387, 49 FR 33436], which was affirmed in court [*Arrow Air, Inc.,* v. *Dole,* 784 F2d 1118 (1986)]. The interpretation clarified that direct air carriers must provide return transportation to any charter passenger that the airline had carried on an outbound flight. Therefore, there is no longer a need for this rulemaking.

3. Notice of Terms of Contract of Carriage Part 399—Statement of General Policy, NPRM published on September 23, 1983, under Docket No. 41683, RIN 2105–AA78, [48 FR 43343]. This rule proposed to require that passengers be given actual notice of contract terms by which carriers disclaim or substantially limit responsibility to provide for substitute transportation to the destination airports named on their tickets, when a flight is diverted to another airport.

Comments: The Department received comments from certain members of the Air Transport Association of America, the travel industry, and several airlines.

Reason for withdrawal: This action is withdrawn because the airline industry, through individual customer service plans, has adopted policies and procedures to provide notice to their customers when it is necessary to divert flights from an original destination.

4. Tariffs; Oversales; Counter Signs, NPRM published on August 1, 1984, under Docket No. 41971, RIN 2105–

AA88, [49 FR 30742]. This rule proposed alternative ways to consolidate and simplify several consumer protection notices displayed by carriers on counter signs.

Comments: The Department received comments from certain members of the Air Transport Association of America, the travel industry, and the U.S. Office of Consumer Affairs.

Reason for withdrawal: Since publication of the NPRM, the increased use of information technology has resulted in many changes in the airline industry. Because of these substantial changes, this rulemaking is no longer necessary.

5. Rules of Practice in Board Proceedings; Fees and Charges for Special Services; and Statements of General Policy, NPRM published on October 5, 1984, under Docket No. 42497, RIN 2105–AA82, [49 FR 39337]. This rule proposed to revise requirements and procedures for applying for exemptions under section 416(b) of the Federal Aviation Act.

Comments: According to the document receipt ledger, no comments were received on this NPRM.

Reason for withdrawal: The Department included most of the proposed provisions from this NPRM in a rule that transferred CAB rules to DOT (50 FR 451, January 1, 1985). Therefore, this NPRM is no longer necessary and is withdrawn.

6. Tariffs; Baggage Liability Notices in International Air Transportation, NPRM published on December 18, 1984, under Docket No. 41690, RIN 2105–AA84, [49 FR 49111]. The NPRM was based on a petition for rulemaking to amend the regulations to clarify that carriers may have some liability for fragile or perishable articles.

Comments: The Department received comments from the International Air Transport Association and the Air Traffic Conference of America.

Reason for withdrawal: Since publication of the NPRM, the purpose of the proposal has been overtaken by changes to other Department rules, which makes this rulemaking unnecessary.

7. Price Advertising, NPRM published on July 26, 1989, under Docket No. 46410, RIN 2105–AB50, [54 FR 31052]. This rule proposed to amend the price advertising requirements to codify long-standing enforcement policy.

Comments: The Department received comments from the airline, travel, and advertising industries, State and local governments, and various consumer groups. A few of the comments urged the Department to adopt the proposals in the NPRM. Comments from State and local agencies expressed concern about the preemptive effects of the NPRM. Other comments stated that the proposals supported unfair and deceptive practices by the airlines.

Reason for withdrawal: Since issuance of the NPRM, the substance of the proposed rule has been covered in numerous DOT enforcement orders, which provide guidance to the industry. Additionally, significant changes in marketing and ticket distribution systems, particularly use of the Internet, have rendered the NPRM inappropriate.

8. Procedures for Transportation Workplace Drug Testing Programs, NPRM published on July 13, 1990, under Docket No. 45928, RIN 2105–AB71, [54 FR 28782]. This rule proposed to amend requirements specifying who may receive negative drug test results.

Reason for withdrawal: The issues raised in this NPRM pertaining to who receives negative drug test results and the comments received on it were addressed in a final rule entitled Procedures for Transportation Workplace Drug and Alcohol Testing Program, under Docket OST–99–6578, published December 19, 2000, 65 FR 79462.

9. Transportation for Individuals with Disabilities, NPRM published on June 20, 1994, under Docket No. 49602, RIN 2105–AC06, [59 FR 31818]. This rule proposed to amend the Department's rules implementing the Americans with Disabilities Act (ADA) by adopting revised accessibility guidelines issued by the Architectural and Transportation Barriers Compliance Board.

Reason for withdrawal: The Department has published a more recent notice of proposed rulemaking entitled Americans with Disabilities Act Accessibility Standards, under Docket No. OST–2000–7703, published August 8, 2000, 65 FR 48444, and intends to consider the issues raised in the 1994 NPRM and comments received on the proposal in this 2000 NPRM.

10. Amendments to Pre-Employment Alcohol Testing Requirements, NPRM published on May 9, 1996, under Docket No. OST–96–1333, RIN 2105–AC50, [61 FR 21149]. This rule proposed a change to pre-employment alcohol testing provisions to harmonize the regulations with the OMNIBUS Transportation Employee Testing Act of 1991 by making pre-employment testing voluntary for employers.

Reason for withdrawal: The pre-employment alcohol testing requirements and the comments received on the NPRM were addressed in a final rule entitled Procedures for Transportation Workplace Drug and Alcohol Testing Program, under Docket OST–99–6578, published December 19, 2000, 65 FR 79462.

While the Department is withdrawing the above-mentioned NPRMs and removing them from the semi-annual Regulatory Agenda, if it is determined that future action is needed, the Department will open new rulemakings.

Issued in Washington, DC on September 24, 2002.

Norman Y. Mineta,

Secretary of Transportation.

[FR Doc. 02–25189 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 25

[REG–123345–01]

RIN 1545–AY91

Net Gift Treatment Under Section 2519

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Cancellation of notice of public hearing on proposed rulemaking.

SUMMARY: This document cancels the public hearing on proposed regulations relating to net gift treatment under section 2519 of the Internal Revenue Code.

DATES: The public hearing originally scheduled for Tuesday, October 15, 2002 at 10 a.m., is cancelled.

FOR FURTHER INFORMATION CONTACT: Guy R. Traynor in the Regulations Unit, Associate Chief Counsel (Income Tax & Accounting), at (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A notice of proposed rulemaking and notice of public hearing that appeared in the **Federal Register** on Monday, July 22, 2002 (67 FR 47755), announced that a public hearing was scheduled for October 15, 2002 at 10 a.m., in room 4718 of the Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC 20044. The subject of the public hearing is proposed regulations under section 2519 of the Internal Revenue Code. The deadline for submitting outlines and requests to speak at the hearing for these proposed regulations expired on September 24, 2002.

The notice of proposed rulemaking and notice of public hearing, instructed those interested in testifying at the public hearing to submit a request to speak and an outline of the topics to be

addressed. As of September 26, 2002, no one has requested to speak. Therefore, the public hearing scheduled for October 15, 2002, is cancelled.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Income Tax & Accounting).

[FR Doc. 02–25191 Filed 10–2–02; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 953]

RIN 1512—AC63

Amelioration of Fruit and Agricultural Wines; Technical Amendments (2001R–197P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms proposes to correct an error in the wine labeling regulations regarding the amelioration of fruit (non-grape) and agricultural wines. The Bureau is also making a number of technical corrections to the wine labeling regulations.

DATES: Written comments must be received by December 2, 2002.

ADDRESSES: Send written comments to: Chief, Regulations Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 953). See the ''Public Participation'' section of this notice for alternative means of commenting.

Copies of the proposed regulation, background materials, and any written comments received will be available for public inspection during normal business hours at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Jennifer Berry, Bureau of Alcohol, Tobacco and Firearms, Regulations Division, 111 W. Huron Street, Room 219, Buffalo, NY 14202–2301; telephone 716–434–8039.

SUPPLEMENTARY INFORMATION:

Background

The Bureau of Alcohol, Tobacco and Firearms administers regulations published in chapter I of title 27 CFR. In a recent review of part 4 of this chapter, Labeling and Advertising of Wine, ATF noted an error at § 4.22(b)(5) regarding the amelioration of fruit (non-grape) and agricultural wines. We propose to correct this error, and make several other technical amendments to the regulations in part 4.

Amelioration Error

The regulations at § 4.22(b)(5) state that fruit (non-grape) and agricultural wines may be treated with sugar or water in excess of the quantities prescribed for their standards of identity without ATF viewing such treatment as an alteration of class and type, if, among other conditions, ''the content of natural acid is not less *than 7.5 parts per thousand.*'' [Italics added.] This limitation of 7.5 parts per thousand is incorrect. Pursuant to 26 U.S.C. 5383 and 5384, the correct minimum acid level should be 7.69 parts per thousand. This level is correctly stated in § 24.178(b)(3) as 7.69 grams per liter. ''Grams per liter'' is equivalent to ''parts per thousand.'' In order to make these regulations accurate and consistent, we are amending the minimum acid limitation in § 4.22(b)(5) to 7.69 grams per liter.

Technical Amendments

ATF has identified a typographical error at § 4.21(h)(2), the standard of identity for imitation and substandard or other than standard wine. The phrase ''other than standard wine'' has been omitted from this section. The corrected regulation will read as follows:

(2) ''Substandard wine'' or ''other than standard wine'' shall bear as a part of its designation the words ''substandard'' *or ''other than standard,''* * * *. [Addition in italics.] We have also identified two technical errors at § 4.30(a). Both the first and second sentences of this section use the word ''article'' to refer to regulatory subparts. ''Article'' was the term used for subparts when the wine labeling regulations were written in 1935. Later revisions replaced ''article'' with ''subpart,'' but these two instances were overlooked. We propose to correct this oversight.

We also propose to remove three obsolete sections from part 4. All three have been replaced with newer sections, and their requirements have been obsolete for years.

- § 4.25, Appellation of origin, obsolete since January 1, 1983, has been replaced with § 4.25a.
- § 4.35, Name and address, obsolete since July 28, 1994, has been replaced with § 4.35a.
- § 4.72, Standards of fill, obsolete since January 1, 1979, has been replaced with § 4.73.

We are assigning the old numbers to the newer sections to improve the organization of part 4. We believe that removing these obsolete sections will make it much easier for readers to find current requirements.

Public Participation

ATF requests comments from all interested parties on the proposals contained in this notice. We specifically request comments on the clarity of this proposed rule and how it may be made easier to understand.

What Is a Comment?

In order for a submission to be considered a ''comment,'' it must clearly indicate a position for or against the proposed rule or some part of it or must express neutrality about the proposed rule. Comments that use reasoning, logic, and, if applicable, good science to explain the commentator's position are most persuasive in the formation of a final rule.

To be eligible for consideration, comments must:

- Contain your name and mailing address;
- Reference this notice number;
- Be legible and written in language generally acceptable for public disclosure;
- Contain a legible, written signature if submitted by U.S. mail or fax; and
- Contain your e-mail address if submitted by e-mail.

To ensure that the public is able to access our office equipment, comments submitted by fax must be no more than five pages in length when printed on 8½″ by 11″ paper. Comments submitted by U.S. mail or e-mail may be any length.

How May I Submit Comments?

By U.S. mail: You may send written comments by mail to the address shown above in the **ADDRESSES** section of this notice.

By fax: You may submit comments by facsimile transmission to 716–434–8041. We will treat faxed transmissions as originals.

By e-mail: You may submit comments by e-mail by sending the comments to *nprm@atfhq.atf.treas.gov.* We will treat e-mailed transmissions as originals.

By online form: You may also submit comments using the comment form provided with the online copy of the proposed rule on the ATF Web site at *http://www.atf.treas.gov/alcohol/rules/index.htm.* We will treat comments submitted via the Web site as originals.

How Does ATF Use the Comments?

We will carefully consider all comments that we receive on or before

the closing date. We will also carefully consider comments we receive after that date if it is practical to do so. However, we cannot assure consideration of late comments. We will not acknowledge receipt of comments or reply to individual comments. We will summarize and discuss pertinent comments in the preamble to any subsequent notices or to the final rule published as a result of the comments.

May I Review Comments Received?

You may view copies of the comments on this notice of proposed rulemaking by appointment at the ATF Reference Library, Room 6480, 650 Massachusetts Avenue, NW., Washington, DC 20226, telephone 202–927–7890. You may also request copies of comments at 20 cents per page by contacting the ATF librarian at the above address or telephone number.

For the convenience of the public, ATF will post comments received in response to this notice on the ATF Web site. All comments posted on our Web site will show the name of the commentator, but will not show street addresses, telephone numbers, or e-mail addresses. We may also omit voluminous attachments or material that we do not consider suitable for posting. To access online copies of the comments on this rulemaking, visit *http://www.atf.treas.gov/* and select ''Regulations,'' then ''Notices of proposed rulemaking (Alcohol)'' and then this notice. Click on the ''View Comments'' button.

Will ATF Keep My Comments Confidential?

ATF cannot recognize any material in comments as confidential. All comments and materials may be disclosed to the public in the ATF Reference Library. We may also post the comment on our Web site. (See ''May I Review Comments Received?'') Finally, we may disclose the name of any person who submits a comment and quote from the comment in the preamble to subsequent notices or to the final rule on this subject. If you consider material to be confidential or inappropriate for disclosure to the public, you should not include it in your comments.

Regulatory Analyses and Notices

Does the Paperwork Reduction Act Apply to this Proposed Rule?

The provisions of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

How Does the Regulatory Flexibility Act Apply to this Proposed Rule?

ATF certifies that this proposed regulation will not have a significant economic impact on a substantial number of small entities. We expect no negative impact on small entities. We are not proposing any new requirements. Accordingly, the Regulatory Flexibility Act does not require a regulatory flexibility analysis.

Is this a Significant Regulatory Action as Defined by Executive Order 12866?

This is not a significant regulatory action as defined by Executive Order 12866. Therefore, the order does not require a regulatory assessment.

Drafting Information

The principal author of this document is Jennifer Berry, Regulations Division, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspections, Imports, Labeling, Packaging and containers, Wine.

Authority and Issuance

Accordingly, ATF proposes to amend 27 CFR part 4 as follows:

PART 4—LABELING AND ADVERTISING OF WINE

Paragraph 1. The authority citation for 27 CFR part 4 continues to read as follows:

Authority: 27 U.S.C. 205, unless otherwise noted.

Par. 2. Amend section 4.21 by revising paragraph (h)(2) introductory text to read as follows:

§ 4.21 The standards of identity.

* * * * *

(h) * * *

(2) ''Substandard wine'' or ''other than standard wine'' shall bear as a part of its designation the words ''substandard'' or ''other than standard,'' and shall include:

* * * * *

Par. 3. Amend section 4.22(b)(5) by removing the phrase ''7.5 parts per thousand'' and replacing it with the phrase ''7.69 grams per liter''.

Par. 4. Remove section 4.25.

Par. 5. Redesignate section 4.25a as section 4.25.

Par. 6. Amend section 4.30(a) by removing the word ''article'' where it appears and replacing it with the word ''subpart''.

Par. 7. Remove section 4.35.

Par. 8. Redesignate section 4.35a as 4.35.

Par. 9. Remove section 4.72.

Par. 10. Redesignate section 4.73 as 4.72.

Signed: July 18, 2002.

Bradley A. Buckles,

Director.

Approved: September 6, 2002.

Timothy E. Skud,

Deputy Assistant Secretary (Regulatory, Tariff & Trade Enforcement).

[FR Doc. 02–24924 Filed 10–2–02; 8:45 am]

BILLING CODE 4810–31–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket 99–67; RM 9165; FCC 02–134]

Petition of the National Telecommunications and Information Administration To Amend the Commission's Rules To Establish Emission Limits for Mobile and Portable Earth Stations Operating in the 1610–1660.5 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission proposes amend its rules that specifies limits on the permissible strength of out-of-band emissions from mobile earth stations with assigned uplink frequencies between 1610 MHz and 2025 MHz in order to prevent interference with use of satellite radionavigation services for airplane guidance during approach to landing. The Commission intends to add a provision in part 25 that would require emissions from mobile earth stations with assigned uplink frequencies in the 1626.5–1660.5 MHz band to be suppressed in the 1605–1610 MHz band to a level determined by linear interpolation from –70 dBW/MHz at 1605 MHz to –46 dBW/MHz at 1610 MHz after January 1, 2005. Further, the Commission intends to add a provision that would require discrete narrowband emissions in the 1605–1610 MHz band to be suppressed to a level 10 dB below the corresponding limit for wideband emissions.

DATES: Comments are due on or before December 2, 2002 and reply comments are due on or before January 2, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: William Bell at (202) 418–0741 (internet: *bbell@fcc.gov*) or Marcus Wolf at (202) 418–0736 (internet: *mwolf@fcc.gov*), International Bureau, Federal Communications Commission, Washington, DC 20554.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in IB Docket No. 99–67, FCC 02–134, adopted May 2, 2002 and released on May 14, 2002. The complete text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room), 445 12th Street, SW., Washington, DC 20554, and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc. (ITS, Inc.), 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Initial Paperwork Reduction Act Analysis

The Commission acknowledged that the FNPRM proposes an additional information-collection requirement and invited the general public and the Office of Management and Budget (OMB) to comment on the proposed additional information requirement, as required by the Paperwork Reduction Act of 1995. Such public comments are due within November 4, 2002. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. Written comments on the proposed information collection requirement should be filed with the Commission's Secretary, and a copy should be submitted to Judy Boley Herman, Federal Communications Commission, Room 1–C804, 445 12th Street SW., Washington, DC 20554, or via the Internet to *jbHerman@fcc.gov,* and Jeanette Thornton, OMB Desk Officer, 10236 NEOB, 725 17th Street NW., Washington, DC 20503, or via the Internet to *jthornto@mp.eop.gov.*

Procedures for Filing Comments on the Further Notice of Proposed Rulemaking

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on the Further Notice of Proposed Rulemaking on or before December 2, 2002 and reply comments January 2, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (''ECFS'') or by submitting paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Commenters must transmit one electronic copy of their comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and six copies of each filing. Paper filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Compton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Comments and reply comments should be captioned using the docket number for this proceeding.

Parties who choose to file by paper should also submit their comments on diskette. The diskettes should be submitted to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission. Portals II, 445 12th Street, SW., Washington, DC. The Commission's contractor, Vistronix, Inc., will receive hand-delivered diskette filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Compton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Word for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskettes should be clearly labeled with the commenter's name, the docket number of this proceeding, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402 Washington, DC 20554.

Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, the Further Notice of Proposed Rulemaking includes an Initial Regulatory Flexibility Analysis (''IRFA'') of possible significant economic impact on ''small entities'' from the proposed rules changes. Members of the public may file written comments on the IRFA within the deadlines for comments on the FNPRM. The Commission requested comment on the number and identity of small entities that would be significantly impacted by the proposed rule changes and invited comment as to whether there is any alternative means of achieving its regulatory objectives

that would significantly reduce burdens on small entities.

List of Subjects in 47 CFR Part 25

Satellite communications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

1. The authority citation for part 25 continues to read as follows:

Authority: 47 U.S.C. 701–744. Interprets or applies Sections 4, 301, 302, 303, 307, 309 and 332 of the Communications Act, as amended, 47 U.S.C. Sections 154, 301, 302, 303, 307, 309 and 332, unless otherwise noted.

2. Section 25.216 is amended by revising paragraph (e) and by adding paragraphs (g), (h) and (i) to read as follows:

§ 25.216 Limits on emissions from mobile earth stations for protection of aeronautical radionavigation-satellite service

(e) The e.i.r.p. density of emissions from mobile earth stations with assigned uplink frequencies between 1990 MHz and 2025 MHz shall not exceed –70 dBW/MHz, averaged over 20 milliseconds, in frequencies between 1559 MHz and 1610 MHz. The e.i.r.p. of discrete emissions of less than 700 Hz bandwidth from such stations shall not exceed –80 dBW, averaged over 20 milliseconds, in that frequency band.

* * * * *

(g) Mobile earth stations placed in service after July 21, 2002 with assigned uplink frequencies in the 1626.5–1660.5 MHz band shall suppress the power density of emissions in the 1605–1610 MHz band-segment to an extent determined by linear interpolation from −70 dBW/MHz at 1605 MHz to −46 dBW/MHz at 1610 MHz. The e.i.r.p. of discrete emissions of less than 700 Hz bandwidth from such stations shall not exceed a level determined by linear interpolation from −80 dBW at 1605 MHz to −56 dBW at 1610 MHz.

(h) The peak e.i.r.p. density of carrier-off-state emissions from mobile earth stations with assigned uplink frequencies between 1 and 3 GHz shall not exceed −77 dBW/MHz in the 1559–1610 MHz band.

(i) No mobile earth station subject to the requirements of this section may be operated after January 1, 2005 unless its conformance with pertinent requirements specified in this section with respect to operation after that date has been demonstrated pursuant to the certification procedure prescribed in part 2, subpart J, of this chapter.

[FR Doc. 02–24893 Filed 10–2–02; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 092402E]

RIN 0648–AP87

Fisheries Off West Coast States and in the Western Pacific; Coastal Pelagic Species Fishery; Amendment 10

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 10 to the Coastal Pelagic Species Fishery Management Plan (FMP) for Secretarial review. Amendment 10 addresses the two unrelated subjects of the transferability of limited entry permits and maximum sustainable yield (MSY) for market squid. Only the subject of permit transfer requires regulatory action. The purpose is to establish the procedures by which limited entry permits can be transferred to other vessels and/or individuals so that the holders of the permits have maximum flexibility in their fishing operations while the goals of the FMP are achieved.

DATES: Comments on Amendment 10 must be received on or before December 2, 2002.

ADDRESSES: Comments on Amendment 10 should be sent to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

Copies of Amendment 10, which includes an environmental assessment/regulatory impact review, and determination of the impact on small businesses are available from Donald O. McIssac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR, 97201.

FOR FURTHER INFORMATION CONTACT: James Morgan, Sustainable Fisheries Division, NMFS, at 562–980–4036 or Daniel Waldeck, Pacific Fishery Management Council, at 503–326–6352.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each Regional Fishery Management Council to submit a fishery management plan or plan amendment to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving a fishery management plan or plan amendment, immediately publish notification in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. NMFS will consider the public comments received during the comment period described above in determining whether to approve, disapprove, or partially approve the fishery management plan or plan amendment.

Amendment 10 would establish an optimum level of harvesting capacity for the limited entry fleet, provide for the transfer of limited entry permits according to specific criteria so that the harvesting capacity goal is not exceeded, and establish a process for the possible consideration of new limited entry permits under certain conditions in the future. The purpose of these measures is to ensure that fishing capacity in the limited entry fishery is in balance with resource availability while giving the fishing industry flexibility in its business ventures.

Amendment 10 to the FMP improves upon Amendment 8 to the FMP. Amendment 10 provides a proxy for MSY for market squid, whereas Amendment 8 did not provide an MSY for market squid. The proxy for MSY for market squid is based on a method of determining egg escapement of the species. NMFS recommended using this approach to monitor the fishery, after NMFS examined the historical landings and the range of the species and determined that these data did not provide the desired information to monitor the harvest of market squid.

Public comments on Amendment 10 must be received by December 2, 2002, to be considered by NMFS when NMFS decides whether to approve, disapprove, or partially approve Amendment 10. A proposed rule to implement Amendment 10 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comment on the proposed regulation to

implement Amendment 10 in the near future.

Authority: 16 U.S.C. 1801 *et. seq.*

Dated: September 27, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–25171 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 67, No. 192
Thursday, October 3, 2002

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request Forms FNS–735, FNS Regional Office-School Food Authority Agreement and FNS–736, State Agency-School Food Authority Agreement

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this Notice invites the public to comment on the Food and Nutrition Service (FNS) use of Forms FNS–735, FNS Regional Office-School Food Authority Agreement and FNS–736, State Agency-School Food Authority Agreement. The Agreements set out the requirements for administering the Child Nutrition Programs and the Food Distribution Program (Child Nutrition Program related portions only) of the U.S. Department of Agriculture (USDA).

DATES: To be assured of consideration, comments must be received by December 2, 2002.

ADDRESSES: Send comments and requests for copies of this information collection to: Mr. Terry Hallberg, Chief, Program Analysis and Monitoring Branch, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 636, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Terry Hallberg, (703) 305–2590.

SUPPLEMENTARY INFORMATION:

Titles: Forms FNS–735, FNS Regional Office-School Food Authority Agreement and FNS–736, State Agency-School Food Authority Agreement.

OMB Number: New.

Expiration Date: Not yet assigned.

Type of Request: New.

Abstract: The Forms FNS–735, FNS Regional Office-School Food Authority Agreement and FNS–736, State Agency-School Food Authority Agreement are used to set out the requirements for administering the Child Nutrition Programs and the Food Distribution Program (Child Nutrition Program related portions only) of the U.S. Department of Agriculture (USDA).

On October 31, 1998, President Clinton signed the Child Nutrition Reauthorization Act of 1998 (Pub. L. 105–336). Section 102(d) amended section 9(i) of the NSLA (42 U.S.C. 1758(i)) by establishing two requirements with respect to school food authorities (SFA) which administer any combination of the Child Nutrition Programs under the same State administering agency (SA). First the SA must use a single State/local agreement for all programs operated by the SFA, including an alternate SFA under that SA. This also means that multiple programs operated under an alternate SA must be combined into a single agreement. A SA must use a common reimbursement form to claim meals under all of the programs. Previously, single agreements and common claim forms were permitted at SA option for SFAs administering multiple Child Nutrition Programs under a single SA.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: The respondents are State agencies, FNS Regional Offices, and School Food Authorities participating in the National School Lunch Program (NSLP), School Breakfast Program (SBP), Summer Food Service Program (SFSP), Child and Adult Care Food Program (CACFP), School Milk Program (SMP), and Food Distribution Program (FDP—child nutrition program related portions only).

Estimated Number of Respondents:

Form FNS–735, FNS Regional Office-School Food Authority Agreement: 5.

Form FNS–736, State Agency-School Food Authority Agreement: 20,629.

Estimated Number of Responses per Respondent:

Form FNS–735, FNS Regional Office-School Food Authority Agreement: 1 response.

Form FNS–736, State Agency-School Food Authority Agreement: 1 response.

Estimated Total Annual Burden on Respondents:

Form FNS–735, FNS Regional Office-School Food Authority Agreement: 1.25 burden hours.

Form FNS–736, State Agency-School Food Authority Agreement: 5,157 burden hours.

Dated: September 25, 2002.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 02–25148 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Magdalena Ridge Observatory, Cibola National Forest, Socorro County, NM

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to issue an amended Special Use Permit to the New Mexico Institute of Mining and Technology (NMT). The proposed amendment, referred to as the Magdalena Ridge Observatory project (MRO), would allow NMT to construct and operate a new observatory and its associated facilities within the existing 1,000 acre Principle Research Area of the Langmuir Laboratory for Atmospheric Research site located on Magdalena Ridge on the Magdalena Ranger District of the Cibola National Forest. The observatory and its associated facilities would consist of

two main parts: (1) the scientific equipment consisting of an interferometer telescope array of 16 telescopes at full build out, its associated infrastructure including about 85,000 square feet of parking areas and roadways, and a single 2.5 meter stand-alone telescope; (2) educational and research support facilities that would cover about 52,000 square feet. Construction would take place over four to five years, and include a new utility corridor to supply additional power and water to the ridge top site.

DATES: Comments concerning the scope of the analysis should be received in writing by November 29, 2002. The draft environmental impact statement is expected in March 2003, for a 45 day comment period and the final environmental impact statement is expected at the end of September, 2003.

ADDRESSES: Send written comments to: SAIC, Att: Susan Goodan, 2109 Air Park Road, SE Albuquerque, NM, 87106 or send your comments electronically to *goodans@saic.com.*

FOR FURTHER INFORMATION CONTACT: Laura Hudnell, Forest Service MOR Liaison, P.O. Box 45, Magdalena, NM 87825, 505.854.2281. Send e-mail correspondences to *lhudnell@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The proposed site for the New Magdalena Ridge Observatory (MRO) facilities is within Langmuir Research Site, a 31,000-acre area set aside by Congress in 1980, under Public Law 96–550, for the purpose of encouraging scientific research into atmospheric processes and astronomical phenomena. New Mexico Institute of Mining and Technology (NMT) is part of a consortium of universities along with the U.S. Navy, Naval Research Laboratory (NRL) that would develop this facility. The observatory would feature both a conventional telescope and an interferometer array of telescopes that function together to provide more resolution than that which is available from a single telescope. This innovative technology has been pioneered by NRL at the Navy Prototype Optical Inteferometer (NPOI) near Flagstaff, Arizona. Experience from developing NPOI would be applied to this proposed facility with further refinements that would improve capabilities for high-resolution observations. The observatory's primary purpose would be for education and optical and astronomical research by NMT and the consortium members. A secondary purpose would be to support passive observing techniques for identifying satellites and to track missiles during tests at White Sands Missile Range.

The primary purpose of the MRO would be education and research by NMT and other consortium members. The facility would provide access to state-of-the-art telescopes, cameras, spectrometers, and associated equipment. There is an acute need for high-tech education in New Mexico, where the economy is closely tied to science and engineering. The MRO would serve the academic research community by providing telescopes for research and development of research techniques. This is important and timely, and the need is great due to the ongoing closing of several research telescopes at other observatories, which has handicapped the research community. The observatory would also provide public outreach, programs for K–12 students, courses for K–12 teachers, research experiences for undergraduates, and support of research by graduate students.

A secondary purpose would be to support the defense community. Using the interferometer array, passive observing techniques for identifying satellites could be developed. This would serve a national need to know how well satellites are performing and to improve their performance if they malfunction. A stand-alone, single telescope would be able to track missiles during tests sat the White Sands Missile Range. Also, this telescope could be used as a test bed for new instruments and sensors and could be used to develop new surveillance technologies.

Proposed Action

To amend the existing Special Use Permit to the New Mexico Institute of Mining and Technology (NMT) to allow NMT to construct and operate a new observatory, called the Magdalena Ridge Observatory, on the ridge of the Magdalena Mountains. The new facilities would be situated on the ridge of the Magdalena Mountains between the main Langmuir Laboratory Principle Research Area and South Baldy Peak. Physical development would have two main parts: (1) the scientific equipment consisting of an interferometer array and associated infrastructure, and a single stand-alone telescope; and, (2) educational and research support facilities. An area of about 80 acres would be delineated as the primary science area where only the interferometer array and main telescope and associated support facilities would be located. The educational and supporting facilities would be located outside this area to reduce wind turbulence that can interfere with viewing objects in space. Fencing would be erected around some facilities, including the array, to prevent damage to the scientific equipment, for example, by livestock or recreationists. About 52,000 square feet (SF) of new enclosed facilities would be constructed, and about 85,000 SF of compacted gravel parking areas and roadway. A trench for new utilities lines (about one mile in length and five feet wide) would be dug. Excavations for building foundations and pits for water storage tanks and septic fields may involve blasting. Construction activities could directly disturb about six to eight acres and a larger area (about 10 to 12 acres) may be affected from operating construction equipment. Construction would take place over four to five years.

There is an acute need for high-tech education in New Mexico, where the economy is closely tied to science and engineering. The MRO would serve the academic research community by providing telescopes for research and development of research techniques. This is important and timely, and the need is great due to the ongoing closing of several research telescopes at other observatories, which has handicapped the research community.

The purpose and need of the Magdalana Ridge Observatory (MRO) are: (1) Education and research by NMT and other consortium members, (2) provide access to state-of-the-art telescopes, cameras, spectrometers, and associated equipment, (3) provide public outreach programs for K-12 students, courses for K-12 teachers, research experiences for undergraduates, and support of research by graduate students, (4) support to the defense community by using the interferometer array, passive observing techniques for identifying satellites, (5) assist in the need to know how well satellites are performing and to improve their performance if they malfunction, (6) support of tests at the white Sands Missile Range and a test bed for new instruments and sensors that could be used to develop new surveillance technologies.

Overall guidance for land management activities in the project area is provided by the Cibola National Forest Plan (U.S. Department of Agriculture, 1985). The proposed area is also covered by an existing Special Use Permit, Number 70, for the Langmuir Laboratory and the Operation and Maintenance Plan of May 2002 for the Langmuir Laboratory.

Possible Alternatives

No Action Alternative—This alternative will serve as the baseline for the project and display the existing

resource conditions. Under this alternative no modifications would be made to the Special Use Permit to the New Mexico Institute of Mining and Technology (NMT) nor would there be construction to operate a new observatory and its associated facilities.

Full Build Out Alternative.—This would involve all sixteen telescopes at one time instead of seven. This would be similar to the proposed, with the exception of the number of telescopes being installed at one time.

Optical Laser Techniques Alternative—This alternative would involve the use of adaptive optical techniques utilizing laser guide stars. A laser system of about 100 watts of power would be included with the scientific facilities identified in the proposed action.

24/24 Alternative—This would involve adding two additional movable telescopes with mirrors of approximately 2.4 meters, linked to the interferometer array located south of the proposed single telescope site.

Lead and Cooperating Agencies

the USDA Forest Service, Cibola National Forest will be the lead agency for this proposed project. The U.S. Navy, Naval Research Laboratory (NRL) is a cooperating agency. New Mexico Institute of Mining and Technology (NMT) is also a cooperating agency and part of a consortium of universities cooperating on this project.

Responsible Official

Cibola National Forest Supervisor, 2113 Osuna Road NE., Suite A, Albuquerque, NM 87113–1001.

Nature of Decision To Be Made

The USDA Forest Service must decide whether or not to amend the existing Special Use Permit that currently allows NMT to operate the Langmuir Laboratory for Atmospheric Research, to include the proposed observatory and its associated facilities.

Scoping Process

A Public Involvement and Communication Plan (PIC) will be developed. It will focus on methods to inform the public on the proposal and to solicit public comments to help identify issues, concerns and opportunities associated with the Proposed Action. A prescoping letter will be sent out the week of October 1, 2002, with a two week response period to assist the forest in focusing on those audiences who are interested in the proposed activity. Once responses have been returned from the pre-scoping letter, the PIC plan will be implemented. No specific meeting dates and locations have been identified at this time. The number, location and type of public involvement meetings to be held will be identified after comments have been returned from the pre-scoping letter.

Preliminary Issues

- Potential effects on Threatened and Endangered Species and habitat.
- Potential effects on visual quality from off-site locations on viewscape, including from adjacent ridges that may be used and/or have special value for Native American tribes.
- Potential effects of increased traffic on Water Canyon Road, and impact on private property inholdings and easements.
- Potential effects on recreation (such as cross country skiing and hunting) from new facilities and fenced areas.
- Potential effects on the Forest's ability to reduce fire risks within the Forest boundary and prevent catastrophic wildfire from increased human activity.
- Potential effects of developing and using a new water supply in an area where water for grazing operations is already stressed.
- Potential effects of slight reduction in area available for grazing, recreation, and other multiple uses that USFS determines to be incompatible with the primary use of the site for scientific purposes.

Permits or Licenses Required

Solid Waste, Air Quality, and Water Use.

Comment Requested

This Notice of Intent initiates the scoping process which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1987). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the November 29, 2002, comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21.

Dated: September 27, 2002.

Liz Agpaoa,

Cibola Forest Supervisor.

[FR Doc. 02–25109 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest, California, Noxious and Invasive Plant Control Project EIS

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement (EIS) on a proposal to conduct noxious and invasive plant control on the Klamath National Forest (KNF) in Siskiyou County, California. The purpose of the proposal is to help in the control of noxious weeds and invasive exotic plants. These plants are an increasing threat to the function, composition, and structure of native ecosystems. This EIS will analyze the treatment of prioritized noxious weeds spread geographically over 27,000 acres on known and suspected infestation sites Forest-wide by a variety of treatment methods. Actual treatment would be on 2,700 acres per year or less. The KNF still has an opportunity to prevent extensive weed infestation and spread, if aggressive, consistent treatment is employed.

DATES: Comments concerning the scope of the analysis must be received by 45 days after publication of this notice in the **Federal Register.** The draft environmental impact statement is expected in summer 2003 and the final environmental impact statement is expected in fall 2003.

ADDRESSES: Send written comments to Margaret J. Boland, Forest Supervisor, KNF, 1312 Fairlane Road, Yreka, CA 96097. Electronic mail may be sent to *r5_klamath_comment@fs.fed.us.* Please reference the Noxious and Invasive Plant Control Project on the subject line. Also, include your name and mailing address with your comments so documents pertaining to this project may be mailed to you.

FOR FURTHER INFORMATION CONTACT: Anne Yost, EIS Team Leader, (530) 468–1226.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

Noxious weeds and invasive exotic plants are a serious biodiversity issue of great significance to human and natural resource conditions on the KNF. Increasing human population and activity contributes to the rapid spread of weeds. There are about 2,000 exotic and noxious weed species already established in the United States, with more entering the country every year as trade and travel between continents increases. Millions of acres of public lands in the West are rapidly undergoing the greatest degradation due to the spread of invasive non-native plants. Estimates indicate invasive plants are increasing at about 4,600 acres per day on Federal lands alone, and spreading at a rate of 14% per year (Asher and Mullahey, Weed Science Society of America Congressional Briefing, 1997). Within the last 20 years in California, studies show that yellow starthistle alone has increased from 1 million acres to more than 20 million-about 22 percent of the State's land base (Joe DiTomasso, Department of Weed Science, University of California, Davis, personal communication). Current inventories indicate that weeds are spreading at an increasing rate on Forest Service lands within the Pacific Southwest Region (Region 5 Strategy).

According to statistics compiled by the Integrated Pest Control Branch of the California Department of Food and Agriculture Plant Health and Pest Prevention Services (1998 Annual Report), 93 percent of the acres infested with A-rated noxious weeds in the State are located in the northeastern part of the State, including Siskiyou County. B- and C-rated pests occur in greater numbers and their density and frequency varies according to individual site locations. These species are generally widespread in the State of California and in Siskiyou County, and eradication is not an achievable goal on a broad scale. On the KNF, the numbers of exotic invasive plant species and areas infested are relatively small compared to other parts of the west. The KNF still has an opportunity to prevent extensive weed infestation and spread if aggressive, consistent treatment is employed.

Project Objective

The objectives of the KNF Noxious and Invasive Plant Control Project are to:

- Protect the ecosystem function and biodiversity of the KNF by preventing the continued spread of aggressive, non-native plant species.
- Prevent the spread of established non-native noxious and invasive plants into uninfested or lightly infested area. This is a strategy of containing the leading edge.
- Eradicate new invaders (non-native noxious and invasive plant species not previously reported in the area) before they become established.
- Eradicate or control known and potential non-native noxious and invasive plant infestations in the following areas that are considered infestation pathways (roads, trails, streams, intensively burned areas) for the establishment and movement of these plants on the KNF.

Proposed Action

The U.S. Department of Agriculture (USDA) Forest Service, KNF, proposes to treat/control prioritized noxious weeds that are spread geographically over 27,000 acres on known and suspected infestation sites Forest-wide by a variety of treatment methods. Actual treatment would be on 2,700 acres per year or less. The word ''control'' refers to eradication (elimination) or reduction for some weed populations, and slowing the rate of spread for others. An Integrated Pest Management approach will be used, which employs a combination of control methods including: physical control (*e.g.* hand-pulling, digging, clipping, mowing, tilling, and burning); cultural control (*e.g.,* seeding and cultivation); biological control (*e.g.,* use of parasites and pathogens); and chemical control (*e.g.,* use of herbicides). No aerial spraying of herbicides will occur.

Responsible Official

Margaret Boland, Forest Supervisor, KNF, 1312 Fairlane Road, Yreka, California 96097 is the Responsible Official.

Nature of Decision To Be Made

The decision is what actions, if any, should be taken to control non-native noxious and invasive plants on the KNF; where treatments should be applied, what type of treatments should be used, and what resource protection measures and operating procedures will be applied.

Scoping Process

In April 2002, this project was included in the KNF's Spring 2002 Schedule of Proposed Actions (SOPA), which was posted on the KNF's internet website and mailed to the SOPA mailing list. In October 2002, a scoping letter of the proposed project will be sent to potentially affected individuals and anyone who expresses an interest in this proposal. This notice will invite public comment. Comments received will be included in the documentation for the EIS. The public is encouraged to take part in the process and to with the Forest Service officials at any time during the analysis and prior to the decision. The Forest Service will be seeking information, comments and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in, or affected by, the proposed administrative study.

While public participation in this analysis is welcome at any time, comments received within 45 days of the publication of this notice will be especially useful in the preparation of the Draft EIS. Information will be used in preparation of the draft and final EIS.

The scoping will include identifying: potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposed and alternatives.

Comment Requested

This notice of intent initiatives the scoping process, which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45-days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EISs must structure their participation in the environmental review of the proposed so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp* v. *NRDC,*435 U.S. 519, 533, (1978). Also, environmental objections that could be raised at the Draft EIS stage but that are not raised until after completion of the Final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the Final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of these who comment, will be considered part of the public record on this proposal and will be available for public inspection. (**Authority:** 40 CFR 1501.7 and 1508.22; Forest Service Handbook 191.15, Section 21)

Dated: September 27, 2002.

Michael P. Lee,

Deputy Forest Supervisor, Klamath National Forest.

[FR Doc. 02–25112 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: An Opal Creek Scenic Recreation Area Advisory Council meeting will convene in Stayton, Oregon on Monday, October 21, 2002. The meeting is scheduled to begin at 6 p.m., and will conclude at approximately 8:30 p.m. The meeting will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of thirteen members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, adjacent landowners and recreation interests. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include information sharing on the following topics:

Implementation of the Opal Creek SRA Management Plan;

Discussion on transition of the Council membership in accordance with provisions of the Council Charter;

Discussion of future topics and a tentative schedule for the Council meetings;

A direct public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the October 21 meeting by sending them to Designated Federal Official Stephanie Phillips at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal Official Stephanie Phillips; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: September 27, 2002.

Y. Robert Iwamoto,

Acting Forest Supervisor.

[FR Doc. 02–25111 Filed 10–02–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Oregon Coast Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Oregon Coast Province Advisory Committee will meet in Grand Ronde, OR, October 24, 2002. The theme of the meeting is Community Recovery Sustainability/Business Planning. The agenda includes: A panel discussion involving special use permitees/off highway vehicle users/ outfitters/guides/Forest Service/Bureau of Land Management; Community sustainability; Socio analysis of the southern Willamette Valley; Public input; and Round Robin sharing.

DATES: The meeting will be held October 24, 2002, beginning at 9 a.m.

ADDRESSES: The meeting will be held at the Spirit Mountain Casino, ¼ mile west of Valley Junction, Oregon, on Highway 18.

FOR FURTHER INFORMATION CONTACT: Joni Quarnstrom, Public Affairs Specialist, Siuslaw National Forest, 541–750–7075, or write to Siuslaw National Forest Supervisor, P.O. Box 1148, Corvallis, OR 97339.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Council discussion is limited to Forest Service/ BLM staff and Council Members. Lunch

will be on your own. A public input session will be at 2:45 p.m. for fifteen minutes. The meeting is expected to adjourn around 4 p.m.

Dated: September 26, 2002.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 02–25108 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Siuslaw Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siuslaw Resource Advisory Committee will meet in Corvallis, OR. The purpose of the meeting is to determine how to spend Title II Payments to Counties Funds. The agenda includes: How to distribute the balance of Title II funds; kinds of projects the RAC would like to see from the Forest Service; how much Title II money should be used on private lands versus public lands; the cost of NEPA implementation for public projects; and a public forum.

DATES: The meeting will be held October 25, 2002, beginning at 9 a.m.

ADDRESSES: The meeting will be held in the Siuslaw River Room, at the Siuslaw National Forest Headquarters, at 4077 SW Research Way, Corvallis, OR.

FOR FURTHER INFORMATION CONTACT: Linda Stanley, Community Development Specialist, Siuslaw National Forest, 541/750–7210 or write to Forest Supervisor, Siuslaw National Forest, P.O. Box 1148, Corvallis, OR 97339.

SUPPLEMENTARY INFORMATION: A public input period will begin at 11:45 a.m. The meeting is expected to adjourn a few minutes after 12 noon.

Dated: September 26, 2002.

Gloria D. Brown,

Forest Supervisor.

[FR Doc. 02–25107 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Notice of Idaho Panhandle Resource Advisory Committee Meeting

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committee Act (Pub. L. 92–463) and under the Secure Rural Schools and Community Self-Determination Act of 2000 (Pub. L. 106–393) the Idaho Panhandle National Forest's Idaho Panhandle Resource Advisory Committee will meet Friday, October 18, 2002 at 9:30 a.m. in Coeur d'Alene, Idaho for a business meeting. The business meeting is open to the public.

DATES: October 18, 2002.

ADDRESSES: The meeting location is the Idaho Panhandle National Forest's Supervisor's Office, located at 3815 Schreiber Way, Coeur d'Alene, Idaho 83815.

FOR FURTHER INFORMATION CONTACT: Ranotta K. McNair, Forest Supervisor and Designated Federal Officer, at (208) 765–7369.

SUPPLEMENTARY INFORMATION: The meeting agenda includes reviewing project proposals for fiscal year 2003. The public forum begins at 1 p.m.

Dated: September 27, 2002.

Ranotta K. McNair,

Forest Supervisor.

[FR Doc. 02–25110 Filed 10–2–02; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–818]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Paige Rivas or Tom Futtner, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0651, and (202) 482–3814, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Preliminary Determination

We preliminarily determine that imports of urea ammonium nitrate solutions (UANS) from the Russian Federation (Russia) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On May 9, 2002, the Department initiated antidumping duty investigations to determine whether imports of UANS from Lithuania, Belarus, Russia, and Ukraine are being, or are likely to be, sold in the United States at LTFV. *See Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine,* 67 FR 35492 (May 20, 2002) (*Initiation Notice*).[1]

On June 4, 2002, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of UANS from Belarus, Russia and Ukraine. *See Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine,* 67 FR 39439 (June 7, 2002).

During May 2002, the Department provided participating parties with an opportunity to comment on scope and the product characteristics of subject merchandise. No parties submitted comments.

On May 22, 2002, the Department issued its antidumping questionnaire [2] to the Embassy of the Russia in Washington DC, and the company with the most imports during the period of investigation (POI), according to data on

[1] The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in nonmarket economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States under investigation. Section E requests information on further manufacturing.

the record, JSC Nevinnomysskij Azot (Nevinka). The Department requested that the Embassy of Russia send the questionnaire to all companies that manufactured and exported UANS to the United States, as well as all manufacturers that produced UANS for companies engaged in exporting subject merchandise to the United States, and all companies that exported UANS to the United States, during the POI. Although the Department provided all Russian exporters of UANS with the opportunity to respond to its questionnaire by providing it to the Embassy of Russia, only Nevinka responded to the Department's questionnaire. The Department issued supplemental questionnaires to Nevinka, where appropriate.

Period of Investigation

The POI is October 1, 2001, through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, April, 2002). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (the Customs Service) purposes, the written description of the merchandise under investigation is dispositive.

Nonmarket Economy Country Status

The Department has treated Russia as a nonmarket economy (NME) country in previous antidumping investigations (*e.g., see Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams From the Russian Federation,* 67 FR 35490 (May 20, 2002) *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation,* 66 FR 49347, (September 27, 2001), and the *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From the Russian Federation,* 65 FR 5510 (February 4, 2000)). In accordance with section 771(18)(C) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. On June 6, 2002, the Department revoked Russia's NME status effective April 1, 2002. Because the POI for this investigation precedes the effective date of the market economy determination, this preliminary determination is based on information contained in the nonmarket economy questionnaire responses submitted by the respondent. Therefore, pursuant to section 771(18)(C) of the Act, the Department will continue to treat Russia as an NME country for the purposes of this investigation.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base normal value (NV) on the NME producer's factors of production (FOP), valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual FOP prices are discussed under the ''Normal Value'' section, below.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China,* 61 FR 19026, 19027 (April 30, 1996). Nevinka [3] has provided the requested company-specific separate rates information and has indicated that there is no element of government ownership or control over its operations. We have considered whether Nevinka is eligible for a separate rate as discussed below.

The Department's separate-rates test is not concerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the export-related investment, pricing, and output decision-making processes at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine,* 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review,* 62 FR 61276, 61279 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China,* 60 FR 14725, 14726 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as modified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities. *See Silicon Carbide, 59 FR 22587, and the Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China,* 60 FR 22544, 22545 (May 8, 1995).

1. *Absence of De Jure Control*

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Nevinka has placed on the record a number of documents to demonstrate the absence of *de jure* control, including Nevinka's business licenses and company registration. Other than limiting Nevinka's operations to the activities referenced in the license, we noted no restrictive stipulations associated with the licenses. Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control.

2. *Absence of De Facto Control*

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent

[3] Both Nevinka and an affiliated reseller participated in the sales process during the POI. Because they are affiliated, we are analyzing the separate rates information as applicable to both Nevinka and the affiliated reseller.

has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.

With regard to the issue of *de facto* control, Nevinka has reported the following: (1) There is no government participation in setting export prices; (2) its managers have authority to negotiate sales contracts; (3) the government does not participate in management selection, and (4) there are no restrictions on the use of its export revenue. Furthermore, Nevinka is responsible for financing its own losses. Although Nevinka is obligated by Russian law to convert a certain percentage of foreign currency receipts into rubles, the Department has not considered such foreign exchange requirements to constitute *de facto* control. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate From Ukraine,* 66 FR 13286, 13289 (March 5, 2001); *Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine,* 66 FR 38632, 38633 (July 25, 2001). Additionally, Nevinka's questionnaire response does not suggest that pricing is coordinated among exporters. Furthermore, our analysis of Nevinka's questionnaire response reveals no other information indicating governmental control of export activities. Therefore, based on the information provided, we preliminarily determine that there is an absence of *de facto* government control over Nevinka's export functions. Consequently, we preliminarily determine that the respondent has met the criteria for the application of a separate rate.

For further discussion of our preliminary separate rates determination, *see* the Separate Rates Analysis for the Preliminary Determination: Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation, dated concurrently with this notice, on file in the Central Records Unit (CRU) located in B–099 of the main Department of Commerce building.

The Russia-Wide Rate

In all NME cases, the Department makes a rebuttable presumption that all exporters or producers located in the NME country comprise a single exporter under common government control, the ''NME entity.'' The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate. Although the Department provided all Russian exporters of UANS with the opportunity to respond to its questionnaire, only Nevinka provided a response. However, our review of U.S. import statistics reveals that there are other Russian companies, in addition to Nevinka, that exported UANS to the United States during the POI. Because these exporters did not submit a response to the Department's questionnaire, and thus did not demonstrate their entitlement to a separate rate, we have implemented the Department's rebuttable presumption that these exporters constitute a single enterprise under common control by the Russian government, and we are applying adverse facts available to determine the single antidumping duty rate, the Russia-wide rate, applicable to all other Russian exporters comprising this single enterprise. *See, e.g., Final Determination of Sales at Less Than Fair Value: Synthetic Indigo from the People's Republic of China,* 65 FR 25706, 25707 (May 3, 2000).

Use of Facts Otherwise Available

Section 776(a)(2) of the Act provides that ''if an interested party or any other person (A) withholds information that has been requested by the administering authority or the Commission under this title, (B) fails to provide such information by the deadlines for submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782, (C) significantly impedes a proceeding under this title, or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority and the Commission shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' Pursuant to section 782(e) of the Act, the Department shall not decline to consider information that is submitted by an interested party and that is necessary to the determination, even if that information does not meet all the applicable requirements established by the Department, if all of the following requirements are met: (1) The information is submitted by the deadline established for its submission; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability in providing the information and meeting the requirements established by the Department with respect to the information; and (5) the information can be used without undue difficulties.

Section 776(b) of the Act further provides that adverse inferences may be used when an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. In this case, except for Nevinka, all Russian producers/exporters of subject merchandise that exported to the United States during the POI failed to act to the best of their ability by not providing a response to the Department's questionnaire. Thus, the Department has determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. It is the Department's practice to assign to non-cooperative respondents the higher of the highest petition margin, adjusted as appropriate, or the highest margin calculated for any respondent in the proceeding (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Wire Rod from Japan,* 63 FR 40434 (July 29, 1998)). In this case, the highest margin on record is 331.4 percent, the rate from the petition as published in the *Initiation Notice.*

Section 776(c) of the Act provides that where the Department selects from among the facts otherwise available and relies on ''secondary information,'' such as the petition, the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The Statement of Administrative Action accompanying the URAA, H.R. Doc. No. 103–316 (1994) (SAA), states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870.

In order to determine the probative value of the information used to calculate the Russian-wide rate, we examined evidence supporting the calculations in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and NV calculations on which the petition margin calculations were based. The petitioner's methodology for calculating EP and NV is discussed in the *Initiation Notice.* In the petition, EP was based average unit values (AUVs) of imports of subject merchandise during the POI based on official U.S. government import statistics. We recalculated the EP to reflect AUVs in the full POI. Therefore, we consider this information corroborated. To corroborate the

petitioner's NV calculations, we compared the factor consumption rates reported in the petition to the factor consumption rates for these inputs reported by Nevinka, the only responding company in this investigation. Because these were significantly different, we substituted Nevinka's consumption rates for those in the petition. Regarding the factor values, because the Department has preliminarily determined to use a different surrogate country than was used in the petition, we have substituted the factor values developed for this preliminary determination for those in the petition. In instances where a factor value was reported in the petition for which we did not develop a surrogate value, we continued to use the value in the petition.

As a result of these changes, we found that the recalculated petition margin, 233.85 percent, is the highest margin on the record of this case. We have corroborated any secondary information to the extent practicable. To the extent this margin is a recalculated margin based on current information from the investigation, it does not represent secondary information, and, thus, does not need to be corroborated. Thus, the Department has preliminarily determined the Russian-wide rate to be 233.85 percent. For the final determination, the Department will consider all margins on the record at that time for the purpose of determining the most appropriate margin to be used as adverse facts available. *See* the memorandum on Corroboration of Secondary Information of the Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from the Russian Federation (Russia), dated September 26, 2002, on file CRU located in B–099 of the main Department of Commerce building.

Fair Value Comparison

To determine whether Nevinka's sales of UANS to customers in the United States were made at LTFV, we compared EP to NV, calculated using our NME methodology, as described in the ''Export Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

We used EP methodology in accordance with section 772(a) of the Act because Nevinka reported that it and an affiliated reseller participate in the sales process to sell subject merchandise to unaffiliated U.S. customers prior to importation and because constructed export price (CEP) methodology was not otherwise warranted.

We calculated EP based on the prices charged to the first unaffiliated customer for exportation to the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight. Where foreign inland freight was provided by NME companies we used surrogate values from Egypt to value these expenses (*see* the Surrogate Country Values Used for the Preliminary Determination of the Antidumping Duty Investigation of Urea-Ammonium Nitrate Solutions from the Russian Federation (Surrogate Value Memo), dated September 26, 2002, on file in the CRU).

Date of Sale

As stated at 19 CFR 351.401(i), the Department normally will use the respondent's invoice date as the date of sale unless another date better reflects the date upon which the exporter or producer establishes the essential terms of sale. Although ''the Department prefers to use invoice date as the date of sale, we are mindful that this preference does not require the use of invoice date if the facts of a case indicate a different date better reflects the time at which the material terms of sale were established.'' *See Circular Welded Non-Alloy Steel Pipe From the Republic of Korea; Final Results of Antidumping Duty Administrative Review,* 63 FR 32833 (June 16, 1998).

For the first half of the POI, Nevinka reported the contract addenda date as the date of sale because, according to Nevinka, it is the date when all the essential terms of sales were established. For these sales, the Department is using the contract addenda date as the date of sale. During the second half of the POI, Nevinka revised its selling methods. As a result of this change, Nevinka reported the date of shipment as the date of sale.

We have generally accepted Nevinka's date of sale methodology. However, for sales concluded in the first half of the POI but carried out in the second half, we used Nevinka's shipment date as date of sale, rather than the contract addenda date to ensure consistency in the treatment of transactions with this fact pattern. See Calculation Memorandum for the Preliminary Determination: Antidumping Duty Investigation on Urea Ammonium Nitrate Solutions from the Russian Federation, dated September 26, 2002.

Billing Adjustments

For the purposes of the preliminary determination, the Department has not adjusted Nevinka's price for reported billing adjustments because Nevinka has not substantiated its claim for these adjustments. Although Nevinka provided a narrative description of the process involved in calculating the billing adjustments, it failed to place documentation on the record substantiating this claim. According to 19 CFR 351.401(b), ''the interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of a particular adjustment.'' The Department will examine this issue at verification.

Normal Value

1. Surrogate Country

Section 773(c)(4) of the Act requires that the Department value the NME producer's factors of production, to the extent possible, on the prices or costs of factors of production in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The Department's Office of Policy initially identified five countries that are at a level of economic development comparable to Russia in terms of per capita Gross National Product (GNP) and the national distribution of labor. Those countries are Columbia, Egypt, the Philippines, Thailand, and Tunisia (*see* the memorandum from Jeffrey May to Holly Kuga dated February 28, 2002 on file in the CRU). As noted in the memorandum on Selection of Surrogate Country: Preliminary Determination: Antidumping Investigation on Urea Ammonium Nitrate Solutions from the Russian Federation (September 26, 2002) on file in the CRU, Egypt is economically comparable to Russia. Egypt is also a significant producer of comparable merchandise. Moreover, there is sufficient publicly available information on Egyptian values. Accordingly, we have preliminarily calculated NV using publicly available information from Egypt to value Nevinka's factors of production, except where noted below.

2. Factors of Production

Factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. *See* section 773(c) of the Act. To calculate NV, we

multiplied the reported per-unit quantities for these factors by publicly available surrogate values.

In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the surrogate values. For those values not contemporaneous with the POI, we adjusted the values to account for inflation using wholesale price indices published in the International Monetary Fund's International Financial Statistics. As appropriate, we included freight costs in input prices to make them delivered prices. Specifically, we added to the surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic input supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp.* v. *United States,* 117 F. 3d 1401 (Fed. Cir. 1997).

We valued material inputs (including sodium 3-polyphosphate, caustic sodium, aluminum sulphate, polyacrylamide, quicklime, liquid chlorine, anthracite coal, hydrozinehydrate, sulfuric acid, and sodium bichromate) using values from the appropriate Harmonized Tariff Schedule (HTS) item number, from 1999 Egyptian import statistics reported in the United Nations Commodity Trade Statistics (UNCTS), adjusted for inflation.

For the material input, anti-foam Lapron, we used India as the surrogate country, since no surrogate value information has been placed on the record or has otherwise been identified for Egypt or any other country on the Department's surrogate country list. Therefore, we have used April 2001—December 2001 import data from the appropriate HTS item number as reported in the December 2001 annual volume of the Monthly Statistics of the Foreign Trade of India, Volume II—Imports.

For one material input, corrosion inhibitor, Nevinka reported that it purchased this item from a market economy supplier. Therefore, we used the amount that Nevinka reported it paid this supplier to value this input.

In its August 16, 2002, submission, Nevinka calculated a natural gas value of $28.47 per 1000m3 using an Egyptian government price decree for natural gas to consumers, including industrial consumers (*see* Nevinka's August 1, 2002, submission, Exhibit 10, for the Egyptian government decree). The petitioner reports in its September 4, 2002, submission that the Egyptian government purchased the gas from natural gas producers at $1.50 and $2.65 per Mmbtu (or approximately $54 to $96 per 1000m3) based on the price of crude oil, as of July 2001.

Publicly available information indicates that the Egyptian government has agreed to pay market prices for natural gas from private companies located in Egypt. Since the price at which the Egyptian government buys natural gas from gas producers appears to be at market prices, we have determined that the appropriate surrogate value for this factor is the price paid to the gas producers. This price accurately reflects the true market value of natural gas. Publicly available information indicates that predominate the price paid by the Egyptian government for natural gas was approximately $2.65 per Mmbtu during the POI. Therefore, we valued natural gas using information contemporaneous to the POI from an article dated July 18, 2002 published at *www.rigzone.com/news/article.asp?a_id=3846* and we are applying $2.65 per Mmbtu (or $93.50 per 1000m3, adjusted for gross calorific value) as the surrogate value for natural gas in this case.

For labor, consistent with 19 CFR 351.408(c)(3), we used the Russian regression-based wage rate at the Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2002 (*see http://ia.ita.doc.gov/wages*). The source of the wage rate data on the Import Administration's Web site is the 2001 Year Book of Labour Statistics, International Labor Organization (Geneva: 2001), Chapter 5B: Wages in Manufacturing.

We valued electricity using the public prices from the Department's Trade Information Center for high consumption industrial consumers, as employed in silicomanganese from Kazakstan. *See Final Determination of Sales at Less than Fair Value: Silicomanganese from Kazakhstan,* 67 FR 15535 (April 2, 2002).

To value rail rates, we used the surrogate value from Egypt employed in titanium sponge from Kazakhstan. *See Titanium Sponge from the Republic of Kazakhstan: Notice of Final Results of Antidumping Duty Administrative Review,* 64 FR 48973 (November 24, 1999).

We based our calculation of selling, general and administrative (SG&A) expenses, overhead, and profit on the financial statements of Chemical Industries Company, Egyptian Financial & Industrial Company, and El Delta Fertilizers and Chemical Industries, Egyptian producers of comparable merchandise.

For a complete analysis of surrogate values used in the preliminary determination, *see* the Surrogate Values Memo.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

We are directing the Customs Service to suspend liquidation of all entries of subject merchandise from Russia entered, or withdrawn from warehouse, for consumption on or after the date on which this notice is published in the **Federal Register**. In addition, we are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following weighted-average percentage margins exist for the POI:

Manufacturer/exporter	Weighted-average margin (percent)
Nevinka	138.95
Russia-Wide Rate	233.85

The Russia-wide rate applies to all entries of the subject merchandise except for entries from Nevinka.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of UANS from Russia are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information to value the factors of production for

purposes of the final determination within 40 days after the date of publication of this preliminary determination. Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification report. Rebuttal briefs, whose contents are limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–25186 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–814]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions from Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Crystal Crittenden or Tom Futtner, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0989 and (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statue and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department) regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Preliminary Determination:

We preliminarily determine that imports of urea ammonium nitrate solutions (UANS) from Ukraine are being, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On May 9, 2002, the Department initiated antidumping duty investigations to determine whether imports of UANS from Lithuania, Belarus, the Russian Federation, and Ukraine are being, or are likely to be, sold in the United States at LTFV. *See Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002) (*Initiation Notice*).[1]

On June 4, 2002, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of UANS from Belarus, the Russian Federation and Ukraine. *See Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine*, 67 FR 39439 (June 7, 2002).

During May 2002, the Department provided participating parties with an opportunity to comment on scope and the product characteristics of subject merchandise. No parties submitted comments.

On May 22, 2002, the Department issued its antidumping questionnaire[2] to JSC Stirol (Stirol), JSC Azot Cherkassy (Cherkassy), and to the Embassy of Ukraine in Washington, DC requesting that they forward it to any other potential respondents. The Department received no responses to the questionnaire.

Period of Investigation

The period of investigation (POI) is October 1, 2001, through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, April 2002). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of these investigations, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to these investigations is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the written description of the merchandise under investigation is dispositive.

[1] The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States under investigation. Section E requests information on further manufacturing.

Nonmarket Economy Country Status

The Department has treated Ukraine as an nonmarket economy (NME) country in all previous antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Solid Agricultural Ammonium Nitrate from Ukraine*, 66 FR 38632 (July 25, 2001). This NME designation remains in effect until it is revoked by the Department. *See* section 771(1)(C) of the Act. No party has sought revocation of the NME status in this investigation.[3] Therefore, in accordance with section 771(1)(C) of the Act, we will continue to treat Ukraine as an NME country.

Ukraine-Wide Rate

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities. *See Notice of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Stirol and Cherkassy did not demonstrate the eligibility for a separate rate under the separate rates criteria. Accordingly, we preliminarily determine that Stirol and Cherkassy, in addition to all other exporters, are part of the NME-entity and subject to the Ukraine-wide rate.

Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline for submission of the information, or in the form and manner requested, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides information that cannot be verified, the Department shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

No respondent submitted a response to the Department's questionnaire. *See* Letters from Holly Kuga to Stirol and to Cherkassy, dated August 16, 2002. Without a substantive response to the Department's questionnaire, we have no basis for determining a margin. Thus, the Department has applied facts available (FA), in accordance with section 776(a)(2) of the Act, in making our preliminary dumping determination.

Selection of Adverse FA

Section 776(b) of the Act provides that if the Department finds the respondent ''has failed to cooperate by not acting to the best of its ability to comply with a request for information...{the Department} may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See, e.g., Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipes and Tubes From Thailand*, 62 FR 53808, 53819–20 (October 16, 1997). No respondent responded to the Department's questionnaire. On August 22, 2002, Stirol submitted a letter stating that it did not submit a response because it had no shipments of UANS to the United States, which we confirmed with the U.S. Customs Service. *See* Memo to the file from Crystal Crittenden dated September 13, 2002. As a general matter, it is reasonable for the Department to assume that the respondents possessed the records necessary for this investigation, and that by not supplying any information requested by the Department, they failed to cooperate to the best of their ability. Because the Department has determined that the respondents failed to cooperate to the best of their ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As adverse FA, we have used the margin cited in the initiation of this proceeding corroborated with the most updated and accurate data that was available to the Department (*i.e.*, the highest margin based on the adjusted initiation margin calculation), which is 193.58 percent, as the Ukraine-wide rate. *See AD Initiation Checklist* (May 9, 2002) (*Initiation Checklist*). Pursuant to section 776(c) of the Act, the Department has corroborated the 193.58 percent margin from initiation to the extent practicable. *See* Total Facts Available Corroboration Memorandum, dated September 26, 2002. This Ukraine-wide rate applies to all entries of subject merchandise. Though Stirol stated that it had no shipments, there is no basis to assign Stirol a rate distinct from the Ukrainian-wide rate.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all imports of UANS from Ukraine entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct the U.S. Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margin is as follows:

Manufacturer/exporter	Margin (percent)
Ukraine-wide	193.58

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of UANS from Ukraine are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification report. Rebuttal briefs, whose contents are limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should

[3] We note that there is an ongoing inquiry into the status of Ukraine as a NME country, for which a notice to defer this decision was signed on August 5, 2002. *See Notice to Defer a Decision Regarding Ukraine's Non-Market Economy Status: Antidumping Duty Investigation of Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 51536 (August 8, 2002). Information on this separate proceeding can also be found at Import Administration's Web site, at *http://ia.ita.doc.gov/*.

accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. *See* 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after this preliminary determination.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act.

Dated: September 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–25187 Filed 10–02–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–822–805]

Notice of Preliminary Determination of Sales at Less Than Fair Value: Urea Ammonium Nitrate Solutions From Belarus

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Tom Martin or Tom Futtner, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3936, and (202) 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Preliminary Determination

We preliminarily determine that imports of urea ammonium nitrate solutions (UANS) from Belarus are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 733 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On May 9, 2002, the Department initiated antidumping duty investigations to determine whether imports of UANS from Lithuania, Belarus, the Russian Federation, and Ukraine are being, or are likely to be, sold in the United States at LTFV. *See Initiation of Antidumping Investigations: Urea Ammonium Nitrate Solutions from Belarus, Lithuania, the Russian Federation, and Ukraine*, 67 FR 35492 (May 20, 2002) (*Initiation Notice*).[1]

On June 4, 2002, the International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports of UANS from Belarus, the Russian Federation and Ukraine. *See Urea Ammonium Nitrate Solution from Belarus, Lithuania, the Russian Federation and Ukraine*, 67 FR 39439 (June 7, 2002).

During May 2002, the Department provided participating parties with an opportunity to comment on scope and the product characteristics of subject merchandise. No parties submitted comments.

On May 22, 2002, the Department issued its antidumping questionnaire[2] to the Embassy of Belarus in Washington D.C., and to the company identified in the petition, Grodno Production Republican Enterprise ''GPO Azot'' (Grodno). The Department requested that the Embassy of Belarus send the questionnaire to all companies that manufactured and exported UANS to the United States, as well as all manufacturers that produced UANS for companies engaged in exporting subject merchandise to the United States, and all companies that exported UANS to the United States, during the period of investigation (POI). Only Grodno responded to the Department's questionnaire; the Department received timely responses on June 12, 2002 for the section A response, and July 2, 2002 for the section C and D responses. During July and August 2002, the Department issued and Grodno responded to three supplemental questionnaires.

Period of Investigation

The POI is October 1, 2001, through March 31, 2002. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, April, 2002). *See* 19 CFR 351.204(b)(1).

Scope of Investigation

For purposes of this investigation, the product covered is all mixtures of urea and ammonium nitrate in aqueous or ammoniacal solution, regardless of nitrogen content by weight, and regardless of the presence of additives, such as corrosion inhibitors. The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (HTSUS) under item number 3102.80.00.00. Although the HTSUS item number is provided for convenience and U.S. Customs Service (U.S. Customs) purposes, the written description of the merchandise under investigation is dispositive.

[1] The petitioner in this investigation is the Nitrogen Solutions Fair Trade Committee (the petitioner). Its members consist of CF Industries, Inc., Mississippi Chemical Corporation, and Terra Industries, Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in nonmarket economy (NME) cases). Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States under investigation. Section E requests information on further manufacturing.

Nonmarket Economy Country Status

The Department has treated Belarus as a nonmarket economy (NME) country in all previous antidumping investigations. *See Notice of Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars From Belarus*, 66 FR 33528 (June 22, 2001) . In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked. Therefore, pursuant to section 771(18)(C)(i) of the Act, the Department will continue to treat Belarus as an NME country for the purposes of this investigation.

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs the Department to base normal value (NV) on the NME producer's factors of production, valued in a comparable market economy that is a significant producer of comparable merchandise. The sources of individual factor prices are discussed under the ''Normal Value'' section, below.

Separate Rates

In an NME proceeding, the Department presumes that all companies within the country are subject to governmental control and should be assigned a single antidumping duty rate unless the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over its export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). Grodno has provided the requested company-specific separate rates information and has indicated that, although it is 100 percent state owned, there is no element of government control over its operations. We have considered whether Grodno is eligible for a separate rate as discussed below.

The Department's separate-rates test is not concerned, in general, with macroeconomic/border-type controls (*e.g.*, export licenses, quotas, and minimum export prices), particularly if these controls are imposed to prevent dumping. Rather, the test focuses on controls over the export-related investment, pricing, and output decision-making processes at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997); and *Notice of Preliminary Determination of Sales at Less Than Fair Value: Honey From the People's Republic of China*, 60 FR 14725, 14727 (March 20, 1995).

To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991), as modified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22587 (May 2, 1994) (*Silicon Carbide*). Under this test, the Department assigns separate rates in NME cases only if an exporter can demonstrate the absence of both *de jure* and *de facto* governmental control over its export activities. *See Silicon Carbide*, 59 FR 22587, and the *Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

1. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

Grodno has placed on the record a number of documents to demonstrate the absence of *de jure* control, including Regulation No. 359 of the Belarus Government, which specifies that its management has specific decision making authority, (*i.e*, hiring supervisors, controlling state property, reorganizing and dissolving enterprises), and Regulation No. 1835, pertaining to Grodno's export licenses (authorizing Grodno to export under license on condition that domestic consumers have priority). Grodno has also submitted a copy of an export license for subject merchandise covering the first half of the POI. We note that the export license did contain minimum export prices and quantitative limits. Nonetheless, Grodno has demonstrated that the type of decision-making the Department considers significant in separate rates determinations, such as pricing, is conducted at the company level. Grodno claims to have the autonomy to set the price at whatever level it wishes without government interference, and states that it is free to negotiate export prices independently with its customers above the floor price indicated in the export license. In past cases, the Department has found an absence of government control over the export pricing and marketing decisions of firms, even when there is some government involvement with respect to the export of products subject to investigation. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72257 (December 31, 1998); *Honey from the People's Republic of China: Preliminary Determination of Sales at Less than Fair Value*, 60 FR 14725, 14727–14728 (March 20, 1995). Therefore, based on the foregoing, we have preliminarily found an absence of *de jure* control.

2. Absence of *De Facto* Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the export prices are set by, or subject to, the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of its management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses.

With regard to the issue of *de facto* control, Grodno has reported the following: (1) It establishes its own prices; (2) it has the authority to negotiate binding contracts; (3) its General Manager is appointed by its parent company, and management is selected by the general manager; (4) it is not required to notify the Belarus government of its decisions; and (5) it decides how to distribute profits from export sales with no restrictions on the use of its export revenue. Although, according to the law of Belarus, 30 percent of foreign currency earnings must be sold to the government of Belarus, the Department has not considered such foreign exchange requirements to constitute *de facto* control. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Solid Agricultural Grade Ammonium Nitrate From Ukraine*, 66 FR 13286, 13289 (March 5, 2001);

Notice of Final Determination of Sales At Less Than Fair Value: Solid Agricultural Grade Ammonium Nitrate From Ukraine, 66 FR 38632, 38633 (July 25, 2001). Additionally, Grodno has stated that it is the sole exporter of subject merchandise from Belarus, and therefore, it does not coordinate prices with other producers or exporters. Furthermore, our analysis of Grodno's questionnaire response reveals no other information indicating governmental control of export activities. Therefore, based on the information provided, we preliminarily determine that there is an absence of *de facto* government control over Grodno's export functions. Consequently, we preliminarily determine that Grodno has met the criteria for the application of a separate rate. (For a detailed discussion of this issue, *see* Separate Rates Analysis for the Preliminary Determination: Antidumping Duty Investigation of Urea Ammonium Nitrate Solutions from Belarus, dated concurrently with this notice on file in the Central Records Unit (CRU) located in B–099 of the main Department of Commerce building.)

The Belarus-Wide Rate

In all NME cases, the Department makes a rebuttable presumption that all exporters or producers located in the NME comprise a single exporter under common government control, ''the NME entity.'' The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate.

Grodno has preliminarily qualified for a separate rate. Furthermore, information on the record of this investigation indicates that Grodno accounted for all imports of subject merchandise during the POI. Since Grodno is the only known Belarusian exporter of UANS to the United States during the POI, we have calculated a Belarus-wide rate for this investigation based on the weighted-average margin determined for Grodno.

Fair Value Comparisons

To determine whether Grodno's sales of UANS to customers in the United States were made at LTFV, we compared Export Price (EP) to NV, calculated using our NME methodology, as described in the ''Export Price'' and ''Normal Value'' sections of this notice below. In accordance with section 777A(d)(1)(A)(i) of the Act, we calculated weighted-average EPs.

Export Price

We used an EP methodology in accordance with section 772(a) of the Act because Grodno sold subject merchandise to unaffiliated U.S. customers prior to importation and because constructed export price methodology was not otherwise warranted. At the time of sale, Grodno knew that its reported sales of subject merchandise were destined for the United States.

We calculated EP based on the prices charged to the first unaffiliated customer for exportation to the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign inland freight. Where foreign inland freight was provided by NME companies, we used surrogate values from South Africa to value these expenses (*see* the Factors of Production Valuation Memorandum dated September 26, 2002, on file in the CRU).

Normal Value

1. *Surrogate Country*

Section 773(c)(4) of the Act requires that the Department value the NME producer's factors of production, to the extent possible, based on the prices or costs of factors of production in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The Department's Office of Policy initially identified six countries that are at a level of economic development comparable to Belarus in terms of per capita gross national product (GNP) and the national distribution of labor. Those countries are Panama, Turkey, South Africa, Latvia, the Dominican Republic and Peru (see the memorandum from Jeffrey May to Holly Kuga dated May 17, 2002, on file in the CRU). As noted, South Africa is economically comparable to Belarus. South Africa is also a significant producer of comparable merchandise. Moreover, there is sufficient publicly available information on South African values. Accordingly, we have preliminarily calculated NV using publicly available information from South Africa to value Grodno's factors of production, except where noted below.

2. *Factors of Production*

In its questionnaire response, Grodno reported factors of production for the subject merchandise. The factors of production include: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. *See* section 773(c)(3) of the Act. To calculate NV, we multiplied the reported per-unit quantities for these factors by publicly available surrogate values from South Africa.

The surrogate values employed for the production of subject merchandise were selected because of their quality, specificity, and contemporaneity. For those values not contemporaneous with the POI, we adjusted the values to account for inflation using the Production Price Index (PPI) from Statistics South Africa, an official government body of South Africa. As appropriate, we included freight costs in input prices to make them delivered prices. Specifically, we added to the surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic input supplier to the factory or the distance from the nearest seaport to the factory. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997).

We valued material inputs (including sodium hydroxide, quicklime, iron sulphate, trisodium phosphate, and hydrazine-hydrate) using values obtained from imports into South Africa during the POI under the appropriate HTS item number, from the World Trade Atlas, published by Global Trade Information Services, Inc. One input, the corrosion inhibitor, was purchased from a market economy supplier, and was paid for in U.S. currency. Pursuant to section 351.408(c)(1) of the Department's regulations, we valued the corrosion inhibitor based upon the value that Grodno reported that it paid this supplier.

For labor, consistent with 19 CFR 351.408(c)(3), we used the regression-based wage rate for Belarus from the Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in September 2002 (see http://ia.ita.doc.gov/wages). The source of the wage rate data on the Import Administration's website is the 2001 Year Book of Labour Statistics, International Labour Organization (Geneva: 2001), Chapter 5B: Wages in Manufacturing.

We valued natural gas using information for October to December 2001, released by the South African Department of Minerals & Energy (DME) and published in *DME Statistics*.

We valued electricity using the published prices for industrial electricity in 2000, obtained from the Electricity Price Report in *DME Statistics*, published by South Africa's Department of Minerals and Energy.

We based our calculation of selling, general and administrative expenses, overhead, and profit on the fiscal year 2002 (April 2001 to March 2002) publicly available financial statement of Omnia Holdings Limited, a South African producer of the subject merchandise.

For a complete analysis of surrogate values used in the preliminary determination, see the Factors of Production Valuation Memorandum, dated concurrently with this notice.

Verification

In accordance with section 782(i) of the Act, we intend to verify all information relied upon in making our final determination.

Suspension of Liquidation

We are directing the U.S. Customs Service to suspend liquidation of all entries of subject merchandise from Belarus entered, or withdrawn from warehouse, for consumption on or after the date on which this notice is published in the **Federal Register**. In addition, we are instructing the Customs Service to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated in the chart below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following weighted-average percentage margins exist for the POI:

Manufacturer/exporter	Weighted-Average Margin (percent)
Grodno	190.34
Belarus-Wide Rate	190.34

The Belarus-wide rate applies to all entries of subject merchandise except entries from Grodno.

Disclosure

In accordance with 19 CFR 351.224(b), the Department will disclose the calculations performed in the preliminary determination to interested parties within five days of the date of publication of this notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the final determination in this proceeding is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination whether imports of UANS from Belarus are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment

In accordance with 19 CFR 351.301(c)(3)(i), interested parties may submit publicly available information to value the factors of production for purposes of the final determination within 40 days after the date of publication of this preliminary determination. Case briefs or other written comments must be submitted to the Assistant Secretary for Import Administration no later than one week after issuance of the verification report. Rebuttal briefs, whose contents are limited to the issues raised in the case briefs, must be filed within five days after the deadline for the submission of case briefs. A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we will tentatively hold the hearing two days after the deadline for submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. At the hearing, oral presentations will be limited to issues raised in the briefs. See 19 CFR 351.310(c). The Department will make its final determination no later than 75 days after this preliminary determination.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: September 26, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–25188 Filed 10–02–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement, Article 1904 NAFTA Panel Reviews; Request for Panel Review

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of first request for panel review.

SUMMARY: On September 19, 2002, Ispat Sidbec Inc. filed a First Request for Panel Review with the United States Section of the NAFTA Secretariat pursuant to Article 1904 of the North American Free-Trade Agreement. A second request was filed on behalf of the Government of Quebec on September 19, 2002. Panel Review was requested of the Final Affirmative Countervailing Duty Determination made by the United States International Trade Administration, respecting Carbon and Certain Alloy Steel Wire Rod from Canada. This determination was published in the **Federal Register,** (67 FR 55813) on August 30 2002. The NAFTA Secretariat has assigned Case Number USA–CDA–2002–1904–08 to this request.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States , the Government of Canada and the Government of Mexico established

Rules of Procedure for Article 1904 Binational Panel Reviews (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686).

A first Request for Panel Review was filed with the United States Section of the NAFTA Secretariat, pursuant to Article 1904 of the Agreement, on September 19, 2002, requesting panel review of the final determination described above.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is October 21, 2002);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is November 4, 2002); and

(c) The panel review shall be limited to the allegations of error of fact or law, including the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and the procedural and substantive defenses raised in the panel review.

Dated: September 20, 2002.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. 02–25167 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–GT–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 081902B]

Draft Code of Conduct for Responsible Aquaculture in the U. S. Exclusive Economic Zone

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Reopening of comment period; schedule change.

SUMMARY: The National Marine Fisheries Service (NMFS) announces the reopening of the public comment period on a draft Code of Conduct for Responsible Aquaculture in the U. S. Exclusive Economic Zone (Code of Conduct). NMFS also announces a schedule change for the publication of a final Code of Conduct.

DATES: NMFS will accept written comments on the draft Code of Conduct at the appropriate address or fax number until 5 p.m. on October 31, 2002.

ADDRESSES: The draft Code of Conduct and the **Federal Register** Notice dated August 23, 2002 announcing its availability for public comment (67 FR 54644) are available on the NMFS Web site: *www.nmfs.noaa.gov/aquaculture.htm*. These documents will also be provided in hard copy upon request (*see* **FOR FURTHER INFORMATION CONTACT**). Comments on the Code of Conduct may be sent to Colin Nash, NMFS/WASC, P.O. Box 130, Manchester, WA 98353 or by fax to 206–842–8364. Comments may also be hand-delivered during business hours to: NMFS Manchester Research Station, 7305 Beach Drive East, Port Orchard, WA 98366–8204. Comments will not be accepted via telephone, e-mail, or internet.

FOR FURTHER INFORMATION CONTACT: Susan Bunsick, 301–713–2334 Extension 102, Office of Sustainable Fisheries, 1315 East-West Highway, Silver Spring, MD 20910. You may also fax your request to 301–713–0596 or send an e-mail to: *Susan.Bunsick@noaa.gov*. Comments on the Code of Conduct will not be accepted at these contact points.

SUPPLEMENTARY INFORMATION:

Background

The draft Code of Conduct was released for public comment via **Federal Register** notice dated August 23, 2002 (67 FR 54644), with a 30–day comment period. NMFS is extending the comment period in response to numerous requests from the public indicating that a 30–day comment period does not allow sufficient time for stakeholders to provide their input into the preparation of the final document. The previous **Federal Register** notice provided a tentative time frame for the production of a Code of Conduct. To accommodate the longer comment period, the time frame for production of a final Code of Conduct has been revised as provided here.

Time Frame

August 23, 2002: Release draft Code of Conduct for public comment via posting of the document on the NMFS Web site (*www.nmfs.noaa.gov/aquaculture.htm*). The document will also be provided in hard copy upon request (*see* **FOR FURTHER INFORMATION CONTACT**).

October 31, 2002: Public comment period on draft Code of Conduct ends.December 2002: Release final Code of Conduct via a **Federal Register** notice of availability and posting on the NMFS Web site (*www.nmfs.noaa.gov/aquaculture.htm*). The document will also be provided in hard copy upon request (*see* **FOR FURTHER INFORMATION CONTACT**).

Dated: September 27, 2002.

Virginia M. Fay,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 02–25173 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–22–S

COMMISSION ON THE FUTURE OF THE UNITED STATES AEROSPACE INDUSTRY

Public Meeting

AGENCY: Commission on the Future of the United States Aerospace Industry.

ACTION: Notice.

SUMMARY: This meeting is the sixth and final in a series of planned public meetings being held by the Commission to carry out its statutory charge. The focus of this meeting is to deliberate and vote on the Commission's final report to Congress and the President. The report is scheduled for release in November 2002.

Section 1092 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398) established the Commission on the Future of the United States Aerospace Industry to study the issues associated with the future of the United States national security; and assess the future importance of the domestic aerospace industry for the economic an national security of the United States. The Commission is governed by the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation of advisory committees and implementing regulations (41 CFR subpart 101–6.10). All interested parties are welcome to submit written comments at any time.

DATES: Wednesday, October 23, 2002; 3 p.m. to 5:30 p.m.

ADDRESSES: Herbert C. Hoover Building Auditorium, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Cindy Waters, 1235 Jefferson Davis Highway, Suite 940; Arlington, Virginia 22202; phone 703–602–1515; e-mail *watersc@osd.pentagon.mil.* Reasonable

accommodations will be provided for any individual with a disability. Pursuant to the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, any individual with a disability who requires reasonable accommodation to attend the public meeting of the Aerospace Commission may request assistance by contacting Cindy Waters at least five (5) working days in advance.

Dated: September 27, 2002.

Charels H. Huettner,

Executive Director, Commission on the Future of the United States Aerospace Industry.

[FR Doc. 02–25147 Filed 10–2–02; 8:45 am]

BILLING CODE 6820–WP–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–61]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–61 with attached transmittal and policy justification.

Dated: September 27, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

25 SEP 2002

In reply refer to:
I-02/012134

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-61, concerning the Defense Information Systems Agency's proposed Letter(s) of Offer and Acceptance (LOA) to North Atlantic Treaty Organization Consultation, Command, and Control Agency for defense articles and services estimated to cost $550 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations
Senate Committee on Appropriations

Transmittal No. 02-61

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act , as amended

(i) Prospective Purchaser: NATO Consultation, Command, and Control Agency

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$550 million
TOTAL	$550 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: Satellite Communication services and support for Super High Frequency (SHF) Service on Defense System Communications Satellite (DSCS) III Systems, SHF Service on Wideband Gapfiller Satellite (WGS) Systems, Ultra High Frequency (UHF) Service on UHF Follow On (UFO) Satellite Systems, UHF Service on Mobile User Objective System (MUOS) Satellite Systems, control of resources on DSCS III and WGS, control of resources on UFO and MUOS, communications infrastructure upgrade and maintenance support, operation and logistics support including training, publications and documentation, U.S. Government and contractor technical assistance and other related requirements.

(iv) Military Department: DISA (ABC)

(v) Prior Related Cases, if any: none

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: 25 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

North Atlantic Treaty Organization Consultation, Command, and Control Agency – Satellite Communication Services and Support

North Atlantic Treaty Organization Consultation, Command, and Control Agency (NATO NC3A) has requested a possible sale of Satellite Communication services and support for Super High Frequency (SHF) Service on Defense System Communications Satellite (DSCS) III Systems, SHF Service on Wideband Gapfiller Satellite (WGS) Systems, Ultra High Frequency (UHF) Service on UHF Follow On (UFO) Satellite Systems, UHF Service on Mobile User Objective System (MUOS) Satellite Systems, control of resources on DSCS III and WGS, control of resources on UFO and MUOS, communications infrastructure upgrade and maintenance support, operation and logistics support including training, publications and documentation, U.S. Government and contractor technical assistance and other related requirements. The estimated cost is $550 million.

This proposed sale is in support of a competition which is limited to bids from member nations that participate in NATO. NATO remains the fundamental component of U.S. national security in the North Atlantic and European regions. By providing satellite communication services, the U.S. ensures interoperability with our own capabilities and those of our NATO allies and maintains a direct influence on NATO's communications architecture.

This proposed sale of satellite communication services and support is for the purpose of providing NATO with replacement Satellite Communications capability in the UHF and SHF frequency bands based on the U.S. National Military SATCOM programs. NATO needs this proposed sale of services to maintain and upgrade its current satellite communications system. NATO has been operating a satellite communications system since early 1970's.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be ITT of Colorado Springs, Colorado. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of 20 U.S. Government and 23 contractor representatives throughout the NATO's area of operations for 15 years.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02–25150 Filed 10–02–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–60]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–60 with attached transmittal and policy justification.

Dated: September 27, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

25 SEP 2002

In reply refer to:
I-02/010886

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-60, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Germany for defense articles and services estimated to cost $150 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-60

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act , as amended

(i) Prospective Purchaser: Germany

(ii) Total Estimated Value:

Major Defense Equipment*	$ 0 million
Other	$150 million
TOTAL	$150 million

(iii) Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: base services for the German Air Force Tornado operations at Holloman Air Force Base (AFB), New Mexico will be for operational and logistics support including training, fuel, munitions, base operating support, and other related requirements.

(iv) Military Department: Air Force (QWT)

(v) Prior Related Cases, if any: FMS case NDO - $137 million – 24Jan00

(vi) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vii) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none

(viii) Date Report Delivered to Congress: 25 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Germany - Tornado Aircraft Training and Logistics Support

The Government of Germany has requested a possible sale of base services for the German Air Force Tornado operations at Holloman Air Force Base (AFB), New Mexico. Base services provided will be for operation and logistics support including training, fuel, munitions, base operating support, and other related requirements. The estimated cost is $150 million.

This proposed sale will contribute to the foreign policy and national security of the United States by improving the military capabilities of Germany and enhancing standardization and interoperability of this important NATO ally.

Holloman AFB is the only location where the German Air Force trains aircrews in Tornado operations and tactics. The origin of these operations began at U.S. Air Force facilities in 1989.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The U.S. Air Force is the prime contractor for this program. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Germany.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02–25151 Filed 10–2–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 02–59]

36(b)(1) Arms Sales Notification

AGENCY: Department of Defense, Defense Security Cooperation Agency.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 02–59 with attached transmittal and policy justification.

Dated: September 27, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

25 SEP 2002

In reply refer to:
I-02/010554

The Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act (AECA), as amended, we are forwarding herewith Transmittal No. 02-59, concerning the Department of the Army's proposed Letter(s) of Offer and Acceptance (LOA) to Spain for defense articles and services estimated to cost $234 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

Richard J. Millies
Acting Director

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on Armed Services
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 02-59

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act, as amended

(i) **Prospective Purchaser: Spain**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 million
Other	$234 million
TOTAL	$234 million

(iii) **Description and Quantity or Quantities of Articles or Services under Consideration for Purchase: logistics support for six leased AH-64A Apache helicopters, ground support equipment, tools and test equipment, spare and repair parts, supply support, publications, personnel training, U.S. Government and contractor technical assistance and other related elements of logistics support.**

(iv) **Military Department: Army (VZR)**

(v) **Prior Related Cases, if any: none**

(vi) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none**

(vii) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: none**

(viii) **Date Report Delivered to Congress:** 25 SEP 2002

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Spain – Logistics Support for Leased AH-64A Apache Helicopters

The Government of Spain has requested a possible sale of logistics support for six leased AH-64A Apache helicopters, ground support equipment, tools and test equipment, spare and repair parts, supply support, publications, personnel training, U.S. Government and contractor technical assistance and other related elements of logistics support. The estimated cost is $234 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the military capabilities of Spain and furthering standardization and interoperability.

Spain will use these aircraft primarily in support of their training program. They are capable of absorbing these aircraft and will be trained in maintenance.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The principal contractors will be: Boeing Helicopter Company of Mesa, Arizona and Lockheed Martin of Orlando, Florida. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will require the assignment of two U.S. contractor field service representatives for five years to Spain. Following the delivery of the aircraft, a quality assurance team and U.S. Government representative will be required for a period of one week from delivery.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 02–25152 Filed 10–2–02; 8:45 am]
BILLING CODE 5001–08–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of revised non-foreign overseas per diem rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 228. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 228 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: October 1, 2002.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 227. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows:

Dated: September 26, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–08–M

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	M&IE RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
THE ONLY CHANGES IN CIVILIAN BULLETIN 228 ARE UPDATES TO RATES FOR NORTHERN MARIANA ISLANDS.						
ALASKA						
ANCHORAGE [INCL NAV RES]						
05/01 - 09/15	161		85		246	05/01/2002
09/16 - 04/30	85		77		162	05/01/2002
BARROW	159		95		254	05/01/2002
BETHEL	129		66		195	05/01/2002
CLEAR AB	80		55		135	09/01/2001
COLD BAY	90		73		163	05/01/2002
COLDFOOT	135		71		206	10/01/1999
COPPER CENTER	99		63		162	05/01/2002
CORDOVA	105		89		194	05/01/2002
CRAIG	75		57		132	05/01/2002
DEADHORSE	95		67		162	05/01/2002
DELTA JUNCTION	79		58		137	05/01/2002
DENALI NATIONAL PARK						
06/01 - 08/31	125		66		191	09/01/2001
09/01 - 05/31	90		63		153	09/01/2001
DILLINGHAM	95		69		164	05/01/2002
DUTCH HARBOR-UNALASKA	120		78		198	05/01/2002
EARECKSON AIR STATION	80		55		135	09/01/2001
EIELSON AFB						
05/01 - 09/15	149		78		227	05/01/2002
09/16 - 04/30	75		70		145	05/01/2002
ELMENDORF AFB						
05/01 - 09/15	161		85		246	05/01/2002
09/16 - 04/30	85		77		162	05/01/2002
FAIRBANKS						
05/01 - 09/15	149		78		227	05/01/2002
09/16 - 04/30	75		70		145	05/01/2002
FOOTLOOSE	175		18		193	06/01/2002
FT. GREELY	79		58		137	05/01/2002
FT. RICHARDSON						
05/01 - 09/15	161		85		246	05/01/2002
09/16 - 04/30	85		77		162	05/01/2002
FT. WAINWRIGHT						
05/01 - 09/15	149		78		227	05/01/2002
09/16 - 04/30	75		70		145	05/01/2002
GLENNALLEN						
05/01 - 09/30	137		61		198	09/01/2001
10/01 - 04/30	89		56		145	09/01/2001
HEALY						
06/01 - 08/31	125		66		191	09/01/2001
09/01 - 05/31	90		63		153	09/01/2001
HOMER						
05/15 - 09/15	109		76		185	06/01/2002
09/16 - 05/14	76		72		148	06/01/2002
JUNEAU	119		83		202	05/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
KAKTOVIK	165	86	251	05/01/2002
KAVIK CAMP	150	69	219	05/01/2002
KENAI-SOLDOTNA				
04/01 - 10/31	95	76	171	05/01/2002
11/01 - 03/31	60	71	131	05/01/2002
KENNICOTT	159	77	236	05/01/2002
KETCHIKAN				
05/01 - 09/30	130	80	210	05/01/2002
10/01 - 04/30	100	80	180	05/01/2002
KING SALMON				
05/01 - 10/01	225	91	316	05/01/2002
10/02 - 04/30	125	81	206	05/01/2002
KLAWOCK	75	57	132	05/01/2002
KODIAK	105	81	186	05/01/2002
KOTZEBUE				
05/01 - 08/31	167	99	266	06/01/2002
09/01 - 04/30	136	96	232	06/01/2002
KULIS AGS				
05/01 - 09/15	161	85	246	05/01/2002
09/16 - 04/30	85	77	162	05/01/2002
MCCARTHY	159	77	236	05/01/2002
METLAKATLA				
05/30 - 10/01	98	48	146	05/01/2002
10/02 - 05/29	78	47	125	05/01/2002
MURPHY DOME				
05/01 - 09/15	149	78	227	05/01/2002
09/16 - 04/30	75	70	145	05/01/2002
NOME	120	103	223	07/01/2002
NUIQSUT	180	53	233	05/01/2002
POINT HOPE	130	70	200	03/01/1999
POINT LAY	105	67	172	03/01/1999
PORT ALSWORTH	135	88	223	05/01/2002
PRUDHOE BAY	95	67	162	05/01/2002
SEWARD				
05/31 - 09/30	174	105	279	07/01/2002
10/01 - 05/30	79	96	175	07/01/2002
SITKA-MT. EDGECUMBE				
05/16 - 09/16	159	98	257	05/01/2002
09/17 - 05/15	139	97	236	05/01/2002
SKAGWAY				
05/01 - 09/30	130	80	210	05/01/2002
10/01 - 04/30	100	80	180	05/01/2002
SPRUCE CAPE	105	81	186	05/01/2002
ST. GEORGE	105	39	144	07/01/2002
TALKEETNA	100	89	189	07/01/2002
TANANA	120	103	223	07/01/2002
TOGIAK	100	39	139	07/01/2002
UMIAT	200	20	220	05/01/2002
VALDEZ				
05/01 - 10/01	124	71	195	05/01/2002

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/02 - 04/30	69	66	135	05/01/2002
WAINWRIGHT	120	83	203	05/01/2002
WASILLA	95	60	155	01/01/2000
WRANGELL				
05/01 - 09/30	130	80	210	05/01/2002
10/01 - 04/30	100	80	180	05/01/2002
YAKUTAT	110	68	178	03/01/1999
[OTHER]	80	55	135	09/01/2001
AMERICAN SAMOA				
AMERICAN SAMOA	85	67	152	03/01/2000
GUAM				
GUAM (INCL ALL MIL INSTAL)	135	76	211	09/01/2002
HAWAII				
CAMP H M SMITH	112	72	184	06/01/2002
EASTPAC NAVAL COMP TELE AREA	112	72	184	06/01/2002
FT. DERUSSEY	112	72	184	06/01/2002
FT. SHAFTER	112	72	184	06/01/2002
HICKAM AFB	112	72	184	06/01/2002
HONOLULU (INCL NAV & MC RES CTR)	112	72	184	06/01/2002
ISLE OF HAWAII: HILO	108	69	177	06/01/2002
ISLE OF HAWAII: OTHER	89	54	143	05/01/2000
ISLE OF KAUAI				
05/01 - 11/30	158	88	246	06/01/2002
12/01 - 04/30	203	93	296	06/01/2002
ISLE OF KURE	65	41	106	05/01/1999
ISLE OF MAUI	159	89	248	06/01/2002
ISLE OF OAHU	112	72	184	06/01/2002
KEKAHA PACIFIC MISSILE RANGE FAC				
05/01 - 11/30	158	88	246	06/01/2002
12/01 - 04/30	203	93	296	06/01/2002
KILAUEA MILITARY CAMP	108	69	177	06/01/2002
LANAI	299	138	437	09/01/2002
LUALUALEI NAVAL MAGAZINE	112	72	184	06/01/2002
MCB HAWAII	112	72	184	06/01/2002
MOLOKAI	195	111	306	09/01/2002
NAS BARBERS POINT	112	72	184	06/01/2002
PEARL HARBOR [INCL ALL MILITARY]	112	72	184	06/01/2002
SCHOFIELD BARRACKS	112	72	184	06/01/2002
WHEELER ARMY AIRFIELD	112	72	184	06/01/2002
[OTHER]	72	61	133	01/01/2000
JOHNSTON ATOLL				
JOHNSTON ATOLL	0	14	14	05/01/2002
MIDWAY ISLANDS				
MIDWAY ISLANDS [INCL ALL MILITAR	150	47	197	02/01/2000
NORTHERN MARIANA ISLANDS				
ROTA	149	72	221	10/01/2002
SAIPAN	150	88	238	10/01/2002
TINIAN	85	71	156	10/01/2002
[OTHER]	55	72	127	04/01/2000
PUERTO RICO				

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Mariana Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A) +	M&IE RATE (B) =	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
BAYAMON				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
CAROLINA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
FAJARDO [INCL CEIBA & LUQUILLO]	82	54	136	01/01/2000
FT. BUCHANAN [INCL GSA SVC CTR,				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
HUMACAO	82	54	136	01/01/2000
LUIS MUNOZ MARIN IAP AGS				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
MAYAGUEZ	85	59	144	01/01/2000
PONCE	96	69	165	01/01/2000
ROOSEVELT RDS & NAV STA	82	54	136	01/01/2000
SABANA SECA [INCL ALL MILITARY]				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
SAN JUAN & NAV RES STA				
04/11 - 12/23	155	71	226	01/01/2000
12/24 - 04/10	195	75	270	01/01/2000
[OTHER]	62	57	119	01/01/2000
VIRGIN ISLANDS (U.S.)				
ST. CROIX				
04/15 - 12/14	93	72	165	01/01/2000
12/15 - 04/14	129	76	205	01/01/2000
ST. JOHN				
04/15 - 12/14	219	84	303	01/01/2000
12/15 - 04/14	382	100	482	01/01/2000
ST. THOMAS				
04/15 - 12/14	163	73	236	01/01/2000
12/15 - 04/14	288	86	374	01/01/2000
WAKE ISLAND				
WAKE ISLAND	60	32	92	09/01/1998

[FR Doc. 02–25153 Filed 10–2–02; 8:45 am]
BILLING CODE 5001–08–C

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 2, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Director of Admissions, U.S. Military Academy, Official Mail & Distribution Center, ATTN: (Joseph Dineen), 646 Swift Road, West Point, New York, 10996–1905. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports Clearance Office at (703) 692–1451.

Title, Associated Form, and OMB Number: Pre-Candidate Procedures, USMA Forms: 375, 723, 450, 21–12, 21–27, and 381, OMB Control 0702–0060.

Needs and Uses: West Point candidates provide personal background information which allows the West Point Admissions Committee to make subjective judgments on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers. The purpose of this activity is to obtain a group of applicants who eventually may be evaluated for admission to West Point.

Affected Public: Individual or Households.

Annual Burden Hours: 8,450.

Number of Respondents: 66,200.

Responses per Respondent: 1.

Average Burden per Response: 9 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Title 10, USC 4346 provides requirements for admission of candidates to the US Military Academy. The US Military Academy USMA strives to motivate outstanding potential candidates to apply for admission to USMA. Once candidates are found, USMA collects information necessary to nurture them through successful completion of the application process.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–25177 Filed 10–2–02; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Department of the Army, DOD.

ACTION: Notice

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 2, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Director of Admissions, U.S. Military Academy, Official Mail & Distribution Center, ATTN: (Joseph Dineen), 646 Swift Road, West Point, NY 10996–1905. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports Clearance Officer at (703) 692–1451.

Title, Associated Form, and OMB Number: Offered Candidate Procedures, USMA Forms: 5–499, 5–490, 2–66, 847, 5–489, 4–519, 8–2, 6–154, 5–515, 534, 5–516, and 580–1, OMB Control 0702–0062.

Needs and Uses: West Point candidates provide personal background information which allows the west Point Admissions Committee to make subjective judgments on non-academic experiences. Data are also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers. The purpose of this activity is to obtain a group of applicants who eventually may be evaluated for admission to West Point.

Affected Public: Individual or Households.

Annual Burden Hours: 19,325.

Number of Respondents: 92,525.

Responses per Respondent: 1.

Average Burden per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Title 10, U.S.C. 4346 provides requirements for admission of candidates to the U.S. Military Academy. The U.S. Military Academy USMA strives to motivate outstanding potential candidates to apply for admission to USMA. Once candidates are found, USMA collects information necessary to nurture them through successful completion of the application process.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–25178 Filed 10–2–02; 8:45 am]
BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility: (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 2, 2002.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the Director of Admissions, U.S. Military Academy, Official Mail & Distribution Center, ATTN: (Joseph Dineen), 646 Swift Road, West Point, NY, 10996–1905. Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports Clearance Officer at (703) 692–1451.

Title, Associated Form, and OMB Number: Candidate Procedures, USMA Forms: 21–26, 21–23, 21–25, 21–26, 5–520, 5–518, 5–597, FL 481, FL 546, FL 5–2 FL 5–26, FL 5–515, FL 48–1, FL 520, FL 261, FL 21–14, FL 21–8, OMB Control 0702–0061.

Needs and Uses: West Point candidates provide personal background information which allows the West Point Admissions Committee to make subjective judgments on non-academic experiences. Data is also used by West Point's Office of Institutional Research for correlation with success in graduation and military careers. The purpose of this activity is to obtain a group of applicants who eventually may be evaluated for admission to West Point.

Affected Public: Individual or Households.

Annual Burden Hours: 19,325.

Number of Respondents: 92,525.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION: Title 10, USC 4346 provides requirements for admission of candidates to the US Military Academy. The US Military Academy USMA strives to motivate outstanding potential candidates to apply for admission to USMA. Once candidates are found, USMA collects information necessary to nurture them through successful completion of the application process.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 02–25179 Filed 10–2–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy

AGENCY: United States Military Academy, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following committee meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date: November 18, 2002.

Place of Meeting: Superintendent's Conference Room, United States Military Academy (USMA) Taylor Hall, West Point, NY 10996.

Start Time of Meeting: Approximately 3:15 p.m.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Edward C. Clarke, United States Military Academy, West Point, NY 10996–5000, (845) 938–4200.

SUPPLEMENTARY INFORMATION: *Proposed Agenda:* Fall Annual Meeting of the Board of Visitors. Review of the Academic, Military, Moral, Ethical, and the Physical Programs at the USMA. Approval of the 2002 Annual Report to the President. All proceedings are open.

Edward C. Clarke,

Lieutenant Colonel, US Army, Executive Secretary, USMA Board of Visitors.

[FR Doc. 02–25180 Filed 10–2–02; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement Titled: Donaldsonville to the Gulf, Hurricane Protection Feasibility Study

AGENCY: Department of the Army, Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, New Orleans District, is initiating this study under the authority of a United States House of Representative; Transportation and Infrastructure Committee resolution adopted May 6, 1998. This study will investigate the feasibility of constructing a hurricane protection levee from Larose, Louisiana to the western Davis Pond guide levee located east of Boutte, Louisiana. Ecosystem restoration components in the Lac des Allemands drainage basin area north of U.S. Highway 90 will be incorporated into the study. The project location includes Ascension, Assumption, Lafourche, St. Charles, St. James and St. John the Baptist Parishes, Louisiana.

FOR FURTHER INFORMATION CONTACT: Questions concerning the Environmental Impact Statement (EIS) should be addressed to Mr. Gib Owen at U.S. Army Corps of Engineers, PM–RS, P.O. Box 60267, New Orleans, LA 70160–0267, phone (504) 862–1337, fax number (504) 862–2572 or by e-mail at *gib.a.owen@mvn02.usace.army.mil.*

SUPPLEMENTARY INFORMATION: The resolution authorized a study to determine the feasibility of constructing approximately 55 miles of hurricane protection levee from Larose, Louisiana to the western Davis Pond guide levee located east of Boutte, Louisiana. The proposed levee alignment would start at the Gulf Intracoastal Waterway in Lafourche Parish and proceed north parceling the east side of Bayou Lafourche to U.S. Highway 90 south of Raceland, Louisiana. The alignment would proceed northeast paralleling the south side of U.S. Highway 90 to Bayou Des Allemands. A water control structure would be built at Bayou des Allemands. Levee alignment would proceed northeast from east side of Bayou Des Allemands to join with the west Davis Pond guide levee east of Boutte, Louisiana. Additionally, ecosystem restoration activities and interior drainage issues will be investigated in the Lac des Allemands drainage basin between Donaldsonville and Des Allemands Louisiana.

1. Alternatives

a. Hurricane Levees

Environmental and economic analysis will be used to determine the most practical plan, which would provide for the greatest overall public benefit. Alternatives recommended for consideration include several levee alignments along the east side of the Bayou Lafourche corridor in the vicinity of the wetland/cropland interface. Alternative alignments along the Bayou des Allemands to Davis Pond guide levee corridor would follow existing St. Charles Parish levees or along routes for which the parish has obtained permits. Alternatives will be investigated for levees of various elevations and widths that provide varying levels of protection, to determine the plan with the highest net benefits.

b. Flood Control Structure at Bayou des Allemands

Alternatives will be investigated for several locations where levee would intersect Bayou des Allemands.

c. Ecosystem Restoration Features in the Lac des Allemands Drainage Basin

Ecosystem restoration alternatives being considered include a freshwater diversion from the Mississippi River, breaching of existing spoil banks to create more overland flow of water through the basin, and drainage improvements to prevent stagnation.

2. Scoping

Scoping is the process for determining the range of alternatives and significant issues to be addressed in the EIS. For this analysis, a letter will be sent to all parties believed to have an interest in the analysis, requesting their input on alternatives and issues to be evaluated. The letter will also notify interested parties of public scoping meetings that will be held in the local area. Notices will also be sent to local news media. All interested parties are invited to comment at this time, and anyone interested in this study should request to be included in the study mailing list.

A series of public scoping meetings will be held in October and November 2002. Possible meeting site are in the vicinity of Hahnville, Vacherie, Edgard, Gheens, Chackbay, Napoleonville and Donaldsonville, Louisiana. Additional meetings could be held, depending upon interest and if it is determined that further public coordination is warranted.

3. Significant Issues

The tentative list of resources and issues to be evaluated in the EIS includes wetlands (marshes and swamps), bottomland hardwoods, agricultural lands, wildlife resources, aquatic resources including fisheries and essential fish habitat, water quality, air quality, threatened and endangered species, recreation resources, and cultural resources. Socioeconomic items to be evaluated in the EIS include navigation, flood protection, business and industrial activity, employment, land use, property values, public/community facilities and services, tax revenues, population, community and regional growth, transportation, housing, community cohesion, and noise.

4. Environmental Consultation and Review

The U.S. Fish and Wildlife Service (USFWS) will be assisting in the documentation of existing conditions and the assessment of effects of project alternatives through the Fish and Wildlife Coordination Act consultation procedures. The USFWS will provide a Fish and Wildlife Coordination Act report. Consultation will be accomplished with the USFWS and the National Marine Fisheries Service (NMFS) concerning threatened and endangered species and their critical habitat. The NMFS will be consulted on the effects of this proposed action on Essential Fish Habitat. The draft EIS or a notice of its availability will be distributed to all interested agencies, organizations, and individuals.

5. Estimated Date of Availability

Funding levels will dictate the date when the draft EIS is available. The earliest that the draft EIS is expected to be available in the fall of 2004.

Dated: September 16, 2002.

Peter J. Rowan,

Colonel, U.S. Army, District Engineer.

[FR Doc. 02–25182 Filed 10–2–02; 8:45 am]

BILLING CODE 3710–84–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Grant of Exclusive or Partially Exclusive Licenses

AGENCY: Department of the Army, Corps of Engineers, DoD.

ACTION: Notice.

SUMMARY: The Department of the Army, U.S. Army Corps of Engineers, announces the general availability of exclusive, or partially exclusive licenses for the pending patents listed under **SUPPLEMENTARY INFORMATION**. Any license granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

ADDRESSES: Humphreys Engineer Center Support Activity, Office of Counsel, 7701 Telegraph Road, Alexandria, VA 22315–3860.

DATES: Applications for an exclusive or partially exclusive license may be submitted at any time from the date of this notice. However, no exclusive or partially exclusive license shall be granted until January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Patricia L. Howland (703) 428–6672.

SUPPLEMENTARY INFORMATION:

1. *Title:* Method and Device for Securing a Knot. A device for securing a knot in a tight condition in a cord includes a generally tubular member defining a longitudinal hole therethrough. The Tubular member includes a score line for dividing it into two sections by applying a bending or torsional force on the ends thereof. The tubular member further includes a longitudinal slit extending substantially through the thickness thereof. A pre-stretched elastomeric band is disposed around the tubular member.

Serial No.: 09/645,517.

Date: 8/25/2000.

2. *Title:* System and Method for Visually Calculating and Displaying the Status of an Account. A graphical user interface (GUI) is provided a user to facilitate entry and maintenance of accounting information. It requires little or no *apriori* knowledge of accounting principles and thus is amenable for use by unskilled personnel. The system incorporates a ''put and take'' methodology. By entering an amount in a cell, *i.e.,* ''putting,'' a user establishes a balance within that cell. The balance may be reduced by associated amounts with arrows from that cell to another, *i.e.,* ''taking,'' to indicate a transfer of all or part of that balance. Each cell may be color coded to enable a user to readily ascertain the status of various cells within the GUI representing accounting information of interest. Although money is a common commodity tracked via accounting, any commodity that needs to be tracked, including commercial goods, fungible items, or data representing scientific results.

Serial No.: 09/662,460.

Date: 9/15/2000.

3. *Title:* Intelligent Amplifier System. Provided is a system and method for concurrently adjusting parameters of a system incorporating separate devices. In a preferred embodiment, a series of amplifiers used in an instrumentation system are able to be adjusted and

calibrated concurrently via a simple operation of an unskilled operator. One option provides for this adjustment to occur remotely from the devices.

Serial No.: 09/730,566.

Date: 12/07/2000.

4. *Title:* Survey Flag Positioning Method and Apparatus. A device for placing survey flags, and similar devices having stems, is operated so that the stem is locked or otherwise held to an elongated shaft or similar aligning device. Pressure on the shaft or aligning device forces a portion of the flag stem into the soil or other sound substrate. Then, an operator can carry out an operation to separate the placing device from the stem.

Serial No.: 09/779,051.

Date: 12/08/2001.

5. *Title:* Durable System for Controlling the Disposition of Expended Munitions Fired at a Target Positioned Close to the Shooter. To reduce ricochet and backsplash of material impacted by expended munitions at close range, behind a single target is placed a screen of durable internal elements that are much longer than they are wide. The long dimension of each of these internal elements is terminated on at least one of its ends in a tapered configuration. With the tapered configuration facing the shooter, the elements are stacked between durable strong blocks so as to support them. The stacking configuration and shape of the elements provide spaces between each element for debris and projectiles to be directed away from the shooter to a backstop located behind the screen. In a preferred embodiment the screen comprises a 2.4 m by 2.4 m by 1.2 m deep structure incorporating replaceable internal elements of concrete logs of about 15 cm diameter and 1.2 m length with a conical end section of length 30 cm.

Serial No.: 09/801,175.

Date: 3/05/2001.

6. *Title*: Device for Removing Sludge From The Bottom of a Lagoon. A device for removing sludge from a lagoon, includes an elongated frame including first and second end portions. The frame includes first and second laterally spaced runners defining a recess there between. A scoop is positioned in the recess and includes an inclined bottom. One of the first and second end portions includes an opening, which is in fluid communication with the scoop for allowing the sludge to flow therein. A pump is operably connected to the scoop for pumping the sludge collected in the scoop to a remote location.

Serial No.: 09/875,988.

Date: 06/08/2001.

7. *Title*: Scour Sensor Assembly. A system for efficiently and cost effectively monitoring the status of the interface between two dissimilar media is provided. The system uses principles applied from the theory of time domain reflectometry (TDR), together with novel circuitry and low cost narrow band telemetry, to provide real time monitoring on a continuous basis, as needed. The circuitry involved permits operation of the system without relying on relative values of signal amplitude and a novel feedback function that sets the pulse repetition frequency instantaneously to permit an optimum data collection rate as well as a separate measure of the status based on the system operating parameters. It has particular application to real time monitoring and alerting to the effect of scour events in.

Serial No.: 09/879,001.

Date: 6/13/2001.

8. *Title*: Ultra-wide Band Soil/Tire Interaction Radar. A radar system for vehicle tire testing and analysis may be mounted within the casing of a vehicle tire to measure the location of the inner casing of the tire (tire footprint). The radar system of the present invention may also be used to determine soil characteristics by analyzing the reflected signals. The present invention may have particular use in testing tires for use with on or off-road surfaces. However, the present invention may also be used to monitor tire deformation, traction, footprint, and soil characteristics.

Serial No.: 09/882,408.

Date: 6/15/2001.

9. *Title*: Device, and Method of its use, for Concurrent Real Time Alerting to Accumulation of Material Upon Multiple Areas of a Surface. A system is provided for detecting accumulation of material concurrently on multiple areas of a surface in real time. In one embodiment, it is used for detecting icing of airframes while in use or on the ground while awaiting use. It may use either Time domain Reflectometry (TDR) or Frequency Modulated Continuous Ware (FM–CW) sources to provide a known energizing signal to a transmission line sensor. The system ascertains the signals round trip travel time in the transmission line. As material accumulates around the transmission line sensor, the medium through which the signal propagates is indicated by the change in time for the signal to propagate in relation to propagation in a reference medium, *e.g.,* air. By employing pre-specified spectral analysis algorithms and referencing to the dielectric constant of media of interest, a determination of the occurrence, located and the rate, and type of material accumulation can be made.

Serial No.: 10/015,784.

Date: 12/17/2001.

10. *Title:* Material, and Method of Producing it, for Immobilizing Heavy Metals Later Entrained Therein. Provided are an improved structural material for bullet traps and the like, a method of producing it, and a structure comprising it. The material is suitable for entraining and immobilizing projectiles and fine particles in a stick gel. It is prepared by mixing cement with a thickener to form a dry mixture. Water is mixed with a fine aggregate in a mixer. The dry mixture is combined with the aqueous mixture in the mixer to form a slurry. Calcium phosphate and an aluminum compound are added, mixing each separately until homogeneous. The density of the mixture is measured and an aqueous foam is added to adjust the density to a pre-specified level. Fibers are mixed into the adjusted mixture to form a homogeneous slurry that may be poured into a mold or in place at a construction site. Upon curing, the material may be used as a structural component.

Serial No.: 10/067,909.

Date: 02/08/2002.

11. *Title:* Nested Tapered Bags. Tapered bags are dispensed singly form a nested configuration. They may be made of plastic, paper, aluminum foil, or aluminum foil laminated with plastic. The bags are connected at the top by a strip that has a row of perforations between the strip and the top of each bag, the strips in turn attached to each other by conventional fasteners such as staples. The taper may be formed by folding the bags so that a dispensed bag may be unfolded to have a bottom as wide as the top. A row of closely spaced perforations along the connecting portion between any two bags allows a single outermost bag to be separated by pulling and tearing along the row of perforations.

Serial No.: 10/086,702.

Date: 3/04/2002.

12. *Title:* Modular Barrier System for Satisfying Needs Unique to a Specific User. Provided are components, a system, and method of implementing the system, for controlling access and egress. In a preferred embodiment, the user's requirements are considered in providing a properly scaled barrier for such varied uses as security, safety, order, privacy, and discipline. In one embodiment, pre-manufactured panels and connectors are delivered to a site that has been properly prepared for

installation of the system. Local materials may be used for the panels in some cases. The panels and connectors may be assembled quickly by unskilled labor and, in some embodiments, the barrier just as quickly dismantled or repaired as necessary. One embodiment may be used as a temporary or emergency solution to access control. Another embodiment may be used in a residential setting, providing storage in some installations. In all embodiments, accessories for enhancing effectiveness may be installed on or within the barrier.

Serial No.: 01/096,922.

Date: 03/14/2002.

13. *Title:* System and Method for Bioremediating Wastestreams Containing Energetics. A bioremediation system converts a waste stream, at least part of which is a fluid containing energetics, to carbon dioxide (CO2), water and environmentally benign end products. It uses gas-enhanced sequencing-batch-reactors 9SBRs), treating the waste stream in three SBRs seriatim. The first SBR uses a nitrogen purge, the second a hydrogen gas supplement, and the third an oxygen gas or forced air supplement. Each reactor may be supplemented with additives to optimize conditions such as pH, dissolve oxygen, and nutrient level. The system may be implemented under manual control, semi-automated, or fully automated, as needed. A waste stream of consideration is the pink water resultant from munitions fabrication and handling.

Serial No: 10/096,659.

Date: 3/14/2002.

14. *Title:* Process and System for Treating Waste From the Production of Energetics. A waste stream from energetics processing is treated using a pre-filter having media, preferably sand, and a metal that has a reducing potential, preferably elemental iron (Fe^0). The pre-filter is connected to a zero-valent metal column reactor. The waste stream is pumped through the pre-filter to trap solids and deoxygenate it, then enters the reactor and is subjected to a reducing process. Most of the Fe^2 is transformed to the ferrous ion (Fe^{+2}), added to the resultant products, and fed to a continuous stirred tank reactor (CSTR) in which Fenton oxidation occurs. This product is then sent to a sedimentation tank and pH-neutralized using a strong base such as sodium hydroxide (Na^{OH}). The aquesous portion is drawn off and the sludge pumped from the sedimentation tank. Both tanks are monitored and controlled to optimize required additives, while monitoring of pressure drop across the pre-filter and column reactor establishes replacement requirements.

Serial No.: 10/097,089.

Date: 3/14/2002.

15. *Title:* Reactive Geocomposite for Remediating Contaminated Sediments. In one application for remediating sediments, employing a geocomposite sheet eliminates the need for a thick cap or removal and subsequent ex situ treatment of the sediment. A geocomposite with at least one layer of reactive material is placed over the area to be remediated. A layer of available surcharge materials such as sand, gravel, or riprap covers the geocomposite. The weight of the surcharge materials causes pore water to flow from the sediment through the reactive layer or layers of the geocomposite. Contaminants may be trapped in this reactive layer or layers. A top or bottom layer, or both a top and bottom layer, may be provided to inhibit incursion from outside the sediment layer, while permitting appropriate flow direction or pore water into the reactive layer or layers.

Serial No.: 10/115,088.

Date: 4/04/2002.

16. *Title:* System and Method for Determining Status of an Object by Insonification. A flexible piezoelectric-based transducer, mounted on a circumference of a rotating object senses acoustical energy traversing portions of the object. In a preferred embodiment, the transducer is affixed, using a suitable adhesive, within the enclosed portion of a wheel/tire assembly. The transducer sense acoustical energy, *e.g.,* ultrasonic transmissions, generated by the tire contracting the road surface at its contact patch and, without need of external power, translates it to an electrical current and communicates it for further processing. Because the acoustical impedance of the tire casing changes with temperature, hot spots within the tire, as well as other characteristics of the tire's operation, can be detected. Further, any Doppler shift, which occurs due to the rotating medium may be compensated for since the rate of tire rotation may be made known via a speed sensor. A position sensor may also be employed to indicate the position of the hot spot.

Serial No.: 10/118,001.

Date: 4/09/2002.

17. *Title:* Apparatus and Methods For Determining Self-Weight Consolidation And Other Properties of Media. Provided is a consolidometer and methods of its use. In its preferred embodiment, the device and methods permit accurate and convenient laboratory sampling of the self-weight consolidation of media, such as soft soil and soil slurries that may result from dredging operations. One option also provides for attaching sensors at locations along the consolidometer for taking data on additional characteristics of the media.

Serial No.: 10/118,012.

Date: 4/09/2002.

18. *Title:* System and Method for Separate Devices Concurrently. Within a few seconds, parameters of separate devices within a system may be adjusted concurrently. In one embodiment, multiple amplifers used in an instrumentation system are able to be biased and calibrated concurrently with final stage gain control via a simple operation of an unskilled operator. Remote adjustment of devices is also possible.

Serial No.: 10/139,373.

Date: 5/07/2002.

19. *Title:* Electro-Osmotic Pulse (EOP) System Incorporating a Durable Dimensionally Stable Anode and Method of use Therefore. A system and method for treating porous material, *e.g.,* concrete, brick, or other masonry material, via electroosmosis. One application carries dehydration to an extend that it weakens a structure for demolition by significantly dehydrating its structural material. A durable, dimensionally stable anode is affixed to the structure and attached to a wire from a DC power supply. The anode is composed of a value metal substrate with a semi-conductive coating of a precious metal, cement or ceramic. Connection to a cathode through the power supply completes the circuit. A DC voltage is applied to the concrete structure by cycling a prespecified pulse train from the power supply. One pulse train consists of an initial positive pulse followed by a shorter duration negative pulse and ends with a short off period before the pulse train is reinitiated. The cycle continues until the porous material has been determined to be sufficiently treated.

Serial No.: 10/140,875.

Date: 5/09/2002.

20. *Title:* Method and Apparatus for Treating Volatile Organic Compounds, Odors and Biodegradable Aerosol/Particulates In Air Emissions. A biofilter reactor included a housing, an axial pipe ratably supported in the housing and including a plurality of perforations that open into the interior of the housing for collecting a treated fluid. The axial pipe includes an outlet in communication with the interior thereof for removing the treated fluid from the housing. A porous medium is disposed about the axial pipe and is rotatable

therewith. The porous medium is made of a microbial foam.

Serial No.: 09/881,188.

Date: 6/15/2001.

21. *Title:* Roll of Tapered Bags Suitable for Dispensing Bags Singly. Tapered bags are dispensed singly from a roll. They may be made of plastic, paper, aluminum foil, or aluminum foil laminated with plastic. The bags are connected on the roll alternately top-to-top and bottom-to-bottom. Each bag is tapered towards its bottom such that its top-to-top connection with the next bag is wider than the bottom-to-bottom connection. The taper may be formed by folding the bags so that a dispensed bag may be unfolded to have a bottom as wide as the top. Each bottom-to-bottom connection separates the bags along a row of perforations adjacent to a sealed seam of each bag that defines the bag and insures its integrity. A row of closely spaced perforations along the connecting portion between any two bags allows a single end bag to be separated by pulling and tearing along the row of perforations.

Serial No.: 10/086,731.

Date: 3/04/2002.

Richard L. Frenette,

Counsel.

[FR Doc. 02–25181 Filed 10–2–02; 8:45 am]

BILLING CODE 3810–92–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. Navy Case No. 83,713, entitled ''Fabrication of Microelectrode Array Having High Aspect Ratio Microwires''.

ADDRESSES: Requests for information about the invention cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Catherine M. Cotell, Ph.D., Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *cotell@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: September 26, 2002.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 02–25103 Filed 10–2–02; 8:45 am]

BILLING CODE 3810–FF–P

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Uniformed Services University of the Health Sciences.

TIME AND DATE: 1 p.m. to 5 p.m., October 24, 2002.

PLACE: United States Military Academy, West Point, NY 10996.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

12 p.m. Meeting—Board of Regents

(1) Approval of Minutes—August 13, 2002
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of Regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295–3116.

Dated: September 30, 2002.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 02–25355 Filed 10–1–02; 4:00 pm]

BILLING CODE 5001–08–M

DEPARTMENT OF EDUCATION

Secretary of Education's Commission on Opportunity in Athletics; Meeting

AGENCY: Secretary of Education's Commission on Opportunity in Athletics; Department of Education.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming public meeting of the Secretary of Education's Commission on Opportunity in Athletics (the Commission). The Commission invites comments from the public regarding the application of current Federal standards for ensuring equal opportunity for men and women and boys and girls to participate in athletics under Title IX of the Education Amendments of 1972 (''Title IX''). The meeting will take place in Colorado Springs, Colorado.

Individuals who will need accommodations for a disability in order to attend the meetings should notify the Commission office no later than October 15, 2002. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES: October 22–23, 2002.

Location: The Cheyenne Mountain Resort, 3225 Broadmoor Valley, Colorado Springs, Colorado 80906.

Times: October 22: 9 a.m.–12:30 p.m., 2 p.m.–5 p.m., October 23: 9 a.m.–1 p.m.

Meeting Format: This meeting will be held according to the following schedule:

1. Date: October 22, 2002, Time: 9 a.m. to 12:30 p.m., 2 p.m.–5 p.m.

2. Date: October 23, 2002, Time: 9 a.m. to 1 p.m.

Attendees: If you would like to attend any or all of the above listed meetings, we ask that you register with the Commission office by email or fax to the address listed under **ADDRESSES**. Please provide us with your name and contact information.

Participants: The meeting scheduled for October 22, 2002 will begin with presentations from panels of invited speakers. After the presentations by invited speakers, there will be time reserved for comments from the public.

The meeting scheduled for October 23, 2002 will consist of review and discussion by the Commissioners of the information from the previous public meetings in preparation for the Commission's forthcoming report to the Secretary of Education. The public is invited to observe this meeting; however there will not be opportunity for public comment.

If you are interested in participating in the public comment period to present comments on the Federal standards for ensuring equal opportunity for men and women to participate in athletics under Title IX at this meeting, you are requested to reserve time on the agenda of the meeting by contacting the Commission office by email or fax.

We request that you submit a request to the Commission office by email or fax. Please include your name, the organization you represent, if appropriate, and a brief description of the issue you would like to present. Participants will be allowed approximately 3 to 5 minutes to present their comments, depending on the number of individuals who reserve time on the agenda. At the meeting, participants are also encouraged to submit two written copies of their comments. Persons interested in making comments are encouraged to address the issues and questions discussed under **SUPPLEMENTARY INFORMATION.**

Given the expected number of individuals interested in providing comments at the meetings, reservations for presenting comments should be made as soon as possible. Persons who are unable to obtain reservations to speak during the meetings are encouraged to submit written comments. Written comments will be accepted at each meeting site or may be mailed to the Commission at the address listed under **ADDRESSES.**

In addition to making reservations, individuals attending the public meetings, for security purposes, must be prepared to show photo identification in order to enter the meeting location.

Request for Written Comments: In addition to soliciting input during the public meetings, we invite the public to submit written comments relevant to the Commission.

DATES: We would like to receive your written comments on Title IX by November 29, 2002.

ADDRESSES: Submit all comments to the Commission using one of the following methods:

1. *Internet.* We encourage you to send your comments through the Internet to the following address: *OpportunityinAthletics@ed.gov.*

2. *Mail.* You may submit your comments to The Secretary of Education's Commission on Opportunity in Athletics, 400 Maryland Avenue, SW., ROB–3 Room 3060, Washington, DC 20202. Due to delays in mail delivery caused by heightened security, please allow adequate time for the mail to be received.

3. *Facsimile.* You may submit comments by facsimile at (202) 260–4560.

FOR FURTHER INFORMATION CONTACT: See the Commission address under the **ADDRESSES** section of this notice. View the Commission's Web site at: *http://www.ed.gov/inits/commissionsboards/athletics.* The Commission office number is 202–708–7417.

SUPPLEMENTARY INFORMATION: The nation is commemorating the 30th anniversary of the passage of Title IX, the landmark legislation prohibiting recipients of Federal funds from discriminating on the basis of sex. Since this legislation was enacted, there has been a dramatic increase in the number of women participating in athletics at the high school and college levels. The Secretary of Education has determined that this anniversary provides an appropriate time to review the application of Title IX to educational institutions' efforts to provide equal opportunity in athletics to women and men. In order to do so, the Secretary established the Commission on Opportunity in Athletics. The Commission will produce a report no later than January 31, 2002, outlining its findings relative to the opportunities for men and women in athletics in order to improve the effectiveness of Title IX.

Comments are encouraged on the following priority areas:

1. Are Title IX standards for assessing equal opportunity in athletics working to promote opportunities for male and female athletes?

2. Is there adequate Title IX guidance that enables colleges and school districts to know what is expected of them and to plan for an athletic program that effectively meets the needs and interests of their students?

3. Is further guidance or are other steps needed at the junior and senior high school levels where the availability or absence of opportunities will critically affect the prospective interests and abilities of student athletes when they reach college age?

4. How should activities such as cheerleading or bowling factor into the analysis of equitable opportunities?

5. How do revenue producing and large-roster teams affect the provision of equal athletic opportunities? The Department has heard from some parties that whereas some men athletes will ''walk-on'' to intercollegiate teams—without athletic financial aid and without having been recruited—women rarely do this. Is this accurate and, if so, what are its implications for Title IX analysis?

6. In what ways do opportunities in other sports venues, such as the Olympics, professional leagues, and community recreation programs, interact with the obligations of colleges and school districts to provide equal athletic opportunity? What are the implications for Title IX?

7. Apart from Title IX enforcement, are there other efforts to promote athletic opportunities for male and female students that the Department might support, such as public-private partnerships to support the efforts of schools and colleges in this area?

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.access.gpo.gov/nara/index.html.*

Dated: September 27, 2002.

Rod Paige,

Secretary of Education.

[FR Doc. 02–25097 Filed 10–2–02; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Information Quality Guidelines

AGENCY: Office of the Chief Information Officer, Department of Education.

ACTION: Notice of availability—Final information quality guidelines.

SUMMARY: This Notice of Availability informs the public that the Department of Education (Department) has issued information quality guidelines, which are available to the public through the Internet as further described in this notice.

DATES: The information quality guidelines are applicable to information the Department disseminates on or after October 1, 2002.

FOR FURTHER INFORMATION CONTACT: *For a Copy of the Guidelines and Further Information:* The guidelines are available through the Internet at the following site: *http://www.ed.gov/offices/OCIO/info_quality/.* Agency specific Guidelines for the National Center for Education Statistics are available at the following site: *http://nces.ed.gov/statprog/pdf/2002standards.pdf.* Alternatively, you may contact Veena Bhatia, U.S. Department of Education, 7th and D Streets, SW., room 4036, Washington, DC 20202–4651. Telephone: (202) 708–9279.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under *For a Copy of the Guidelines and Further Information.*

SUPPLEMENTARY INFORMATION:

Background

Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Public Law 106–554) requires all Federal agencies covered by the Paperwork Reduction Act (44 U.S.C. Chapter 35), including the Department of Education, to issue guidelines by October 1, 2002, for the purpose of ''ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by the agency.'' (Public Law 106–554). The agency guidelines must be consistent with government-wide guidelines published by the Office of Management and Budget (66 FR 49718, September 28, 2001; 67 FR 8452, February 22, 2002) and must include ''administrative mechanisms allowing affected persons to seek and obtain correction of information'' that the agency maintains and disseminates, and that does not comply with the OMB or agency guidelines.

On May 1, 2002, the Department published in the **Federal Register** (67 FR 21641) a request for public comments on the Department's draft information quality guidelines. On June 11, 2002, the Department published in the **Federal Register** (67 FR 39962) a notice reopening and extending the public comment period. The Department received four sets of public comments on the guidelines. Three sets of comments were general suggestions that were addressed to all agencies and did not specifically address the Department's guidelines, *e.g.*, suggestions for how to define terms, set deadlines for review, and establish a correction and appeal process. These comments were considered and, where appropriate, suggested changes have been incorporated into the final guidelines.

The Department did receive one set of comments specifically on its guidelines. That commenter suggested that the Department should: (1) Categorize the types of data the Department would consider as ''influential information''; (2) provide more detailed guidance to the program offices with respect to the level of correction and the corresponding action to be taken; and (3) only decide not to process a request for correction if it is made in bad faith.

With respect to the first suggestion, the final guidelines include an expanded definition of influential information and examples of some of the types of data that would fall into this category. With respect to the second suggestion, the Department has not made any changes in the final guidelines; the Department believes that the appropriate program office will exercise good judgment in determining whether a correction is necessary and, if so, what that correction should be. In addition, the ability of the requester to appeal to the Chief Information Officer for an impartial review that is conducted by parties other than those who prepared the Department's initial decision serves as an opportunity for the Department to reconsider whether the initial decision was appropriate. Finally, with respect to the third suggestion, the Department has revised the final guidelines to state that the Department ''may reject a request that appears to be made in bad faith or without justification, and is only required to undertake the degree of correction that it concludes is appropriate for the nature and timeliness of the information involved. In addition, the Department need not respond substantively to requests that concern information not covered by the information quality guidelines.''

In addition, the National Center for Education Statistics (NCES) received substantive comments on its standard for Maintaining Confidentiality. In response to those comments, NCES expanded the discussion of laws in the standard and clarified the language required for a confidentiality pledge.

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Dated: September 27, 2002.

Craig B. Luigart,

Chief Information Officer.

[FR Doc. 02–25105 Filed 9–30–02; 10:40 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2567–000AES]

The AES Corporation; Capital Funding, LLC; AES New Energy, Inc.; Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, The AES Corporation, AES Capital Funding, LLC, AES NewEnergy, Inc. (NewEnergy), Constellation Energy Group, Inc. (CEG), and CEG Acquisition, LLC (CEG Acquisition) filed with the Federal Energy Regulatory Commission (Commission) a Notice of Consummation of the Disposition of Facilities regarding the consummation of CEG's acquisition of 100% of the stock of NewEnergy, through CEG's wholly owned subsidiary, CEG Acquisition, on September 9, 2002; and a Notice of Succession to properly reflect the change in name from AES NewEnergy, Inc. to Constellation NewEnergy, Inc. that became effective as of September 9, 2002.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically

via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25132 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2561–000]

Allegheny Energy Service Corporation, on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power); Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, Allegheny Energy Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power), filed an Interconnection Agreement (Agreement) with Mill Run Windpower, LLC as First Revised Service Agreement No. 345 under Allegheny Power's Open Access Transmission Tariff. The proposed effective date for First Revised Service Agreement No. 345 is September 20, 2002. Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25126 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2559–000]

Backbone Mountain Windpower LLC Notice of Filing

September 23, 2002.

Take notice that on September 18, 2002, Backbone Mountain Windpower LLC tendered for filing an application for authorization to sell energy, capacity and ancillary services at market-based rates pursuant to section 205 of the Federal Power Act.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 9, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25140 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC02–117–000]

BIV Generating Company, L.L.C., Colorado Power Partners Brush Power, LLC; Notice of Filing

September 24, 2002.

Take notice that on September 18, 2002, BIV Generation Company, L.L.C. (BIV), Colorado Power Partners (CPP) and Brush Power, LLC (Brush Power) (together, the Applicants), filed with the Federal Energy Regulatory Commission (the Commission) an application pursuant to Section 203 of the Federal Power Act seeking authorization for the transfer of certain jurisdictional facilities that will result from the sale of El Paso Corporation's indirect interests in BIV and CPP to Brush Power, LLC, an indirect wholly-owned subsidiary of MDU Resources Group, Inc. BIV owns and operates a 138–MW electric generating facility located near Brush, Colorado. CPP owns and operates a 50–MW electric generating facility and a 25–MW electric generating facility, both located near Brush, Colorado.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link.

Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 9, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25124 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2234–004]

California Power Exchange Corporation; Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, the California Power Exchange Corporation amended its September 9, 2002 compliance filing.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25133 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2563–000]

Edison Source; Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, Edison Source tendered for filing with the Federal Energy Regulatory Commission (Commission) a notice concerning the termination of the PX Participation Agreement with the California Independent System Operator, dated March 17, 1998, and its Addendum, dated March 17, 1998; and withdrawing Edison Source's Standing Request Relating to Inter-Scheduling Coordinator Trades, dated June 5, 1998.

Edison Source requests that the above termination and withdrawal become effective October 16, 2002.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25128 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2564–000]

Edison Source; Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, Edison Source tendered for filing with the Federal Energy Regulatory Commission (Commission) a notice concerning the termination of the (i) Scheduling Coordinator Agreement, dated November 20, 1997, as amended by Amendment No. 1, dated June 1, 1998, and (ii) Meter Service Agreement for Scheduling Coordinators, dated November 20, 1997, as amended by Amendment No. 1, dated June 1, 1998; (iii) Application Programming Interface to Scheduling Infrastructure System Sublicense Agreement, dated September 15, 1998; and (iv) withdrawing Edison Source's Standing Request Relating to Inter-Scheduling Coordinator Trades, dated June 5, 1998.

Edison Source requests that the above terminations and withdrawal become effective as of December 16, 2002.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18

CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25129 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2565–000]

Edison Source; Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, Edison Source tendered for filing with the Federal Energy Regulatory Commission (Commission) a notice withdrawing its participation in the Western Systems Power Pool (WSPP) pursuant to the Power Purchase and Sale Agreement between Edison Source and the WSPP, dated August 26, 1996.

Edison Source requests to withdraw its participation as of October 15, 2002.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25130 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2397–001]

Great Lakes Hydro America, LLC; Notice of Filing

September 24, 2002.

Take notice that on September 17, 2002, Great Lakes Hydro America, LLC (GLHA) tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Succession pursuant to Sections 35.16 and 131.51 of the Commission's Regulations, 18 CFR 35.16 and 131.51. The tariff sheets filed by GNE, LLC (GNE) in Docket No. ER02–159 are cancelled and are replaced by GLHA's tariff which contain the same substantive terms and conditions as the GNE tariff sheets.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25137 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2560–000]

Louisville Gas and Electric Company and Kentucky Utilities Company; Notice of Filing

September 23, 2002.

Take notice that on September 18, 2002, Louisville Gas and Electric Company (LG&E) and Kentucky Utilities Company (KU) (collectively, LG&E/KU) and as amended on September 19, 2002, hereby tender for filing with the Commission amendments to two agreements between LG&E/KU and East Kentucky Power Cooperative (EKPC). The two agreements are: (a) the Transmission Agreement between Kentucky Utilities Company and East Kentucky Power Cooperative, Inc. entered into on February 9, 1995, as supplemented, and (b) the Interconnection Agreement Between Kentucky Utilities Company and East Kentucky Power Cooperative, Inc. dated May 11, 1995 but effective on October 22, 1994, as supplemented (collectively, the Agreements).

The purpose of this filing is to recognize LG&E/KU's status as a transmission owner and member of the MISO and to adjust the relevant rates, terms and conditions of transmission service provided to EKPC under the Agreements such that they are equal to the corresponding rates, terms and conditions of service that EKPC would pay if it were a direct transmission customer of the MISO (*i.e.*, the rates, terms and conditions of service in effect from time to time under the MISO's Open Access Transmission Tariff (OATT)). Each agreement is a grandfathered agreement listed on Attachment P of the MISO OATT and pursuant to the terms of each grandfathered agreement, LG&E/KU have the unilateral right to file to change the rates, terms and conditions of service applicable to EKPC.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211

and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25141 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–1053–007]

Maine Public Service Company; Notice of Filing

September 24, 2002.

Take notice that on September 16, 2002, pursuant to Section 2.4 of the Settlement Agreement filed on June 30, 2000, in Docket No. ER00–1053–000, and accepted by the Federal Energy Regulatory Commission on September 15, 2000, Maine Public Service Company (MPS) submitted a correction to its June 17, 2002 informational filing setting forth the changed open access transmission tariff charges effective June 1, 2002 together with back-up materials.

Copies of this filing were served on the parties to the proceeding, parties to the Settlement Agreement in Docket No. ER00–1053–000, the Commission Trial Staff, the Maine Public Utilities Commission, the Maine Public Advocate, and current MPS open access transmission tariff customers.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 7, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25136 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2577–000 and ER02–1767–001]

Midwest Independent Transmission System Operator, Inc.; Notice of Filing

September 24, 2002.

Take notice that, on September 13, 2002, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing in the above captioned dockets a proposal to: (i) withdraw its May 8, 2002 filing in Docket No. ER02–1767–000 of revisions to Attachment K of its Open Access Transmission Tariff, FERC Electric Tariff, First Revised Volume No. 1; and (ii) defer implementation of Attachment K in its entirety until the Midwest ISO energy markets are operative in December 2003.

The Midwest ISO has served copies of its filing upon each person designated on the official service list compiled by the Secretary in Docket No. ER02–1767–000. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–502–8222 for assistance). Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: October 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25134 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL01–50–002]

New York Independent System Operator, Inc.; Notice of Filing

September 24, 2002.

Take notice that on September 20, 2002, the New York Independent System Operator, Inc. (NYISO) submitted its compliance filing in the above-captioned proceeding. The NYISO has requested that its compliance filing become effective 120 days after the issuance of a final order accepting it.

The NYISO has served a copy of this filing upon all parties that have executed service agreements under the NYISO's Market Administration and Control Area Services Tariff or Open Access Transmission Tariff, and to the

electric utility regulatory agencies in New York, New Jersey, and Pennsylvania.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 11, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25135 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–565–000]

Pacific Gas and Electric Company; Notice of Filing

September 23, 2002.

Take notice that on September 19, 2002, Pacific Gas and Electric Company (PG&E) tendered for filing a Compliance Filing Pursuant to the Commission's January 11, 2000 Order in Docket No. ER00–565–000.

Copies of this filing have been served upon the California Public Utilities Commission and all parties designated on the Service List compiled by the Federal Energy Regulatory Commission in FERC Docket No. ER00–565–000.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25138 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2562–000]

PJM Interconnection, L.L.C.; Notice of Filing

September 24, 2002.

Take notice that on September 17, 2002 PJM Interconnection, L.L.C. (PJM), submitted for filing an executed interconnection service agreement between PJM and the Owners of the Rock Springs Generating Facility, that supercedes earlier interconnection service agreements between the parties. Copies of this filing were served upon each of the parties to the agreement and the state regulatory commissions within the PJM region.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25127 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2984–0421]

S.D. Warren Company; Notice of Scoping Meetings and Site Visit and Soliciting Scoping Comments for the Eel Weir Project

September 27, 2002.

The Federal Energy Regulatory Commission (Commission) is reviewing S.D. Warren Company's application for a new license for the continued operation of the Eel Weir Hydroelectric Project. Pursuant to the National Environmental Policy Act of 1969, as amended, and procedures of the Federal Energy Regulatory Commission, the Commission staff intends to prepare an Environmental Assessment (EA) for the Eel Weir Project. The EA will evaluate the environmental effects of issuing a new license for the project. The Eel Weir Project is located on the Presumpscot River, at the outlet of Sebago Lake, in Cumberland County,

Maine. The project does not occupy federal lands.

The EA will objectively consider both site-specific and cumulative environmental effects, if any, of the proposed action and reasonable alternatives to the proposed action. The preparation of the staff's EA will be supported by a scoping process to ensure identification and analysis of all pertinent issues.

Scoping Meetings

The Commission staff will hold two scoping meetings in the vicinity of the project; an evening meeting and a morning meeting. The evening meeting is primarily for receiving input from the public, while the morning meeting will focus on resource agency and non-governmental organization (NGO) concerns. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of the meetings are as follows:

Evening Scoping Meeting

When: Tuesday, October 22, 2002, From 7 p.m. until 10 p.m.
Where: Windham High School cafeteria, 406 Gray Road, Windham, ME 04062

Morning Scoping Meeting

When: Wednesday, October 23, 2002, From 9 a.m. until 12 noon
Where: Holiday Inn, Portland West, 81 Riverside Street, Portland, ME 04103

Copies of Scoping Document 1 (SD1), which outlines the subject areas to be addressed in the EA, were distributed to the parties on the Commission's mailing list. Copies of SD1 also will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, call (202) 502–8222.

Site Visit

The applicant and Commission staff will conduct a site visit of the project on Tuesday, October 22, 2002, starting at 9:00 a.m. All interested individuals, organizations, and agencies are invited to attend. All participants should meet at the parking lot where Rt. 35 crosses the Eel Weir bypassed reach. All participants are responsible for their own transportation to the site. Anyone with questions about the site visit should contact Mr. Thomas Howard of S.D. Warren Company at (207) 856–4286 on or before October 15, 2002.

Meeting Objectives

At the scoping meetings, the Commission staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Meeting Procedures

The scoping meetings will be recorded by a court reporter, and all statements (oral and written) will become part of the Commission's public record for the project. Individuals presenting statements at the meetings will be asked to clearly identify themselves for the record. Interested individuals who choose not to speak, or are unable to attend the scoping meetings, may provide written comments and information to the Commission, as described in Section 2.3 of SD1.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend one or both of the meetings, and to assist the staff in defining and clarifying the issues to be addressed in the EA. Any questions concerning the scoping process can be directed to Allan Creamer, the Commission's Environmental Coordinator for the Eel Weir Project, at (202) 502–8365.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25123 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2362–001]

Sunbury Generation, LLC; Notice of Filing

September 23, 2002.

Take notice that on September 17, 2002 Sunbury Generation, LLC (Sunbury), tendered for filing an amendment to its revenue requirement for Reactive Supply and Voltage Control from Generation Sources Service to be provided by the coal-fired units of its 389 MW generating station located in Snyder County, Pennsylvania and reflecting an agreement to allocate the PPL zonal revenue requirement for Reactive Service pursuant to Section 205 of the Federal Power Act, 16 U.S.C. 824d; Part 35 of the Commission's regulations, 18 CFR part 35; and Schedule 2 of the PJM Interconnection, L.L.C.

Open Access Transmission Tariff, with a requested effective date of September 1, 2002. Copies of the filing were served on the official service list in this docket.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25139 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2566–000]

Virginia Electric and Power Company; Notice of Filing

September 24, 2002.

Take notice that on September 19, 2002, Virginia Electric and Power Company (Virginia Power), doing business as Dominion North Carolina Power (Dominion), tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed letter agreement (Letter Agreement) between Dominion and the North Carolina Electric Membership Corporation setting forth a new delivery point to be incorporated into Virginia Power's First Revised Rate Schedule FERC No. 105. Dominion also tenders for filing a revised list of delivery points (Revised List) to reflect the addition of the new delivery point as set forth in the Letter Agreement.

Dominion respectfully requests that the Commission allow the Letter Agreement and Revised List to become effective on September 20, 2002.

Copies of the filing were served upon the North Carolina Electric Membership Corporation, the North Carolina Utilities Commission and the Virginia State Corporation Commission.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. *Comment Date:* October 10, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25131 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EF02–5041–000]

Western Area Power Administration; Notice of Filing

September 24, 2002.

Take notice that on September 17, 2002, the Western Area Power Administration (WAPA) tendered for filing with the Federal Energy Regulatory Commission (Commission) for information, a copy of Rate Order No. WAPA–98. This order extends the existing Parker-Davis Project rate methodology for firm power service and firm and non-firm transmission service through September 30, 2002.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: October 8, 2002.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25125 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Applications Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

September 27, 2002.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Preliminary Permit (Competing)

b. *Project Nos.:* 12336–000 and 12338–000.

c. *Dates filed:* August 14, 2002, and August 16, 2002.

d. *Applicants:* Alaska Power and Telephone Company (Alaska Power) and Pacific Energy Resources, LLC (Pacific Energy)

e. *Name and Location of Projects:* Both Connelly Lake Hydroelectric Projects are proposed to be located at the existing Connelly Lake on an unnamed tributary of the Chilkoot River in Haines Borough, Alaska, partially on federal lands administered by the Bureau of Land Management.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For Alaska Power: Mr. Robert S. Grimm, Alaska Power and Telephone Co., P.O. Box 3222, Port Townsend, WA 98368, (360) 385–1733 ext. 3120. For Pacific Energy: Mr. Brent L. Smith, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* James Hunter, (202) 502–6086.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the noted project numbers on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Projects:* The project proposed by Alaska Power would be operated as a storage project and would consist of: (1) A proposed 48-foot-high, 575-foot-long rockfill dam at the Lake outlet, (2) Connelly Lake, which would have a minimum water surface elevation of 2,280 feet, its current level, and a maximum water surface elevation of 2,312 feet, (3) a screened intake structure at elevation 2,270 feet, (4) a 6,188-foot-long penstock, 48-inch-diameter to a valve house with an auxiliary release adjacent to the dam, then 30-inch-diameter, (5) a powerhouse containing one generating unit with an installed capacity of 6.2 megawatts, (6) a 14-mile-long, 34.5-kilovolt underground transmission line connecting to an existing power line, and (7) appurtenant facilities.

The project proposed by Pacific Energy would be operated in a run-of-river mode and would consist of: (1) A proposed 50-foot-high, 575-foot-long rockfill dam at the Lake outlet, (2) Connelly Lake, which has a surface area of 150 acres at normal water surface elevation of 2,280 feet, (3) a 6,200-foot-long, 30-inch-diameter penstock, (4) a powerhouse containing one generating unit with an installed capacity of 6.0 megawatts, (5) a 15-mile-long, 34.5-kilovolt transmission line connecting to an existing power line, and (6) appurtenant facilities.

k. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at Alaska Power, street address: 191 Otto Street, or Ecosystems Research Institute, Inc., 975 South State Highway, Logan, UT 84321 for Pacific Energy.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

r. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Deputy Secretary.

[FR Doc. 02–25121 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, Protests, Recommendations, and Terms and Conditions

September 27, 2002.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Conduit Exemption.

b. *Project No.:* 12374–000.

c. *Date filed:* September 17, 2002.

d. *Applicant:* Kane County Water Conservancy District.

e. *Name of Project:* Orderville Hydroelectric Facility.

f. *Location:* The project would be located on the existing Orderville Pressurized Irrigation Line in Kane County, Utah. The Irrigation Line diverts water from the East Fork Virgin River. The project would not occupy federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Michael E. Noel, Kane County Water Conservancy District, 981 South Vermillion Drive, Kanab, UT 84741, (801) 644–3996.

i. *FERC Contact:* James Hunter, (202) 502–6086.

j. *Status of Environmental Analysis:* This application is ready for environmental analysis at this time—see the following paragraphs about filing responsive documents.

k. *Deadline for filing comments, protests, and motions to intervene:* October 28, 2002.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12374–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The project would involve construction of a 75-foot by 75-foot powerhouse containing a 200-kilowatt generating unit at the end of the pressurized pipeline and a tailrace returning flows used for generation to the East Fork Virgin River. The average annual generation would be 897,000 kilowatthours.

m. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at http://www.ferc.gov using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

n. Development Application—Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified deadline date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified deadline date for the particular application. Applications for preliminary permits will not be accepted in response to this notice.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Protests or Motions to Intervene—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

q. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

r. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 30 days from the issuance date of this notice. All reply comments must be filed with the Commission within 45 days from the date of this notice.

s. All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION,'' ''COMPETING APPLICATION,'' ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Office of Energy Projects, Federal Energy Regulatory Commission, at the above address. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.

Deputy Secretary.

[FR Doc. 02–25122 Filed 10–2–02; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7390–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, NSPS for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been

forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS for Municipal Solid Waste Landfills, 40 CFR part 60, subpart WWW, OMB Control No. 2060–0220, expiration date September 30, 2002. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before November 4, 2002.

ADDRESSES: Send comments, referencing EPA ICR No. 1557.05 and OMB Control No. 2060–0220, to the following addresses: Susan Auby, U.S. Environmental Protection Agency, Collection Strategies Division (Mail Code 2822T), 1200 Pennsylvania Avenue, NW., Washington, DC 20460–0001; and to Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION: For a copy of the ICR, contact Susan Auby at EPA by phone at (202) 566–1672, by email at *auby.susan@epamail.epa.gov,* or download off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR Number 1557.05. For technical questions about the ICR contact, Sharie Centilla, (202) 564–0697.

SUPPLEMENTARY INFORMATION:

Title: NSPS for Municipal Solid Waste Landfills, 40 CFR part 60, subpart WWW. (OMB Control No. 2060–0220; EPA ICR Number 1557.05) expiring September 30, 2002. This is a request for extension of a currently approved collection.

Abstract: The Standards of Performance for Municipal Solid Waste Landfills; 40 CFR part 60, subpart WWW, were promulgated on March 12, 1996. These standards apply to municipal solid waste landfills for which construction, modification or reconstruction commences on or after May 30, 1991. The rule requires the installation of properly designed emission control equipment, and the proper operation and maintenance of this equipment. These standards rely on the capture and reduction of methane, carbon dioxide, and nonmethane organic gas compound emissions by combustion devices (boilers, internal combustion engines, or flares).

Owners and operators of the affected facilities described must make initial reports when a source becomes subject, conduct and report on performance tests, report of annual or periodic emission rates, report on design plans, report on equipment removal and closure, as well as maintain records of the reports, system design and performance tests, monitoring and exceedances, plot map, and well locations.

Any owner or operator subject to the provisions of this part must maintain a file of the applicable reporting and recordkeeping requirements for at least five years following the collection of such measurements, maintenance reports, and records. All reports are sent to the delegated state or local authority.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on January 30, 2002 at 67 FR 4421. No comments were received on the notice.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 11 hours per response. Burden means the total time, effort, or financial resources expended by persons to: generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and/or operators of municipal solid waste landfills.

Estimated Number of Respondents: 175.

Frequency of Response: On occasion, Quarterly, and Annually.

Estimated Total Annual Hour Burden: 3390 hours.

Estimated Total Annualized Capital, O&M Cost Burden: $107,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the previous addresses. Please refer to EPA ICR No.1557.05 and OMB Control No. 2060–0220 in any correspondence.

Dated: September 25, 2002.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. 02–25156 Filed 10–2–02; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7389–9; CWA–HQ–2001–6013; CAA–HQ–2001–6013; RCRA–HQ–2001–6013]

Clean Water Act Class II: Proposed Administrative Settlement, Penalty Assessment and Opportunity To Comment Regarding IPSCO Steel, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has entered into a consent agreement with IPSCO Steel, Inc. (''IPSCO'' or ''Respondent'') to resolve violations of the Clean Water Act (''CWA''), Clean Air Act (''CAA''), and Resource Conservation and Recovery Act (''RCRA'') and their implementing regulations.

The Administrator is hereby providing public notice of this consent agreement and proposed final order, and providing an opportunity for interested persons to comment on the CWA portions of this consent agreement, in accordance with CWA section 311(b)(6)(C), 33 U.S.C. 1321(b)(6)(C).

Respondent's Spill Prevention Control and Countermeasure (''SPCC'') plan was inadequate. Although required controls were in place, the plan did not include all of the guidelines codified at 40 CFR 112.7. EPA, as authorized by CWA section 311(b)(6), 33 U.S.C. 1321(b)(6), has assessed a civil penalty for these violations.

Respondent failed to meet the CAA New Source Performance Standard (''NSPS'') requirements for Electric Arc Furnaces (''EAFs'') pursuant to 40 CFR part 60, subpart AAa in violation of CAA section 111, 42 U.S.C. 4411. Additionally, Respondent failed to meet certain conditions listed in two of its Prevention of Significant Deterioration (''PSD'') Permits in violation of CAA section 110, 42 U.S.C. 7410, and Iowa's state implementation plan (''SIP''). EPA, as authorized by CAA section 113(d)(1), 42 U.S.C. 7413(d)(1), has assessed a civil penalty for these violations.

Respondent failed to properly label and date hazardous waste containers in accordance with 40 CFR 262.34(a)(2)

and (a)(3). The facility's RCRA contingency plan was inadequate when it failed to describe the precise location of emergency equipment in accordance with 40 CFR 265.52(e), referenced in 40 CFR 262.34(a). Respondent's training records were deficient, pursuant to 40 CFR 265.16, as referenced in 40 CFR 262.34(a). Respondent failed to have universal waste training as required by 40 CFR 273.16. Respondent failed to label drums with the words ''used oil'' in accordance with 40 CFR 279.22. EPA, as authorized by RCRA section 9008a, 42 U.S.C. 6928a, has assessed a civil penalty for these violations.

DATES: Comments are due on or before November 4, 2002.

ADDRESSES: Mail written comments to the Docket Office, Enforcement & Compliance Docket and Information Center (2201T), Docket Number EC–2002–022, Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, EPA West Building, 1200 Pennsylvania Avenue, NW., Room B133, Washington, DC 20460. (Comments may be submitted on disk in WordPerfect 9.0 or earlier versions.) Written comments may be delivered in person to: Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, EPA West Building, Room B133, 1301 Constitution Avenue, NW., Washington, DC. Submit comments electronically to *docket.oeca@epa.gov.* Electronic comments may be filed online at many Federal Depository Libraries.

The consent agreement, the proposed final order, and public comments, if any, may be reviewed at the Enforcement and Compliance Docket Information Center, U.S. Environmental Protection Agency, Rm. B133, EPA West Bldg., 1301 Constitution Avenue, NW., Washington, DC. Persons interested in reviewing these materials must make arrangements in advance by calling the docket clerk at (202) 566–1512 or (202) 566–1513. A reasonable fee may be charged by EPA for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Philip Milton, Multimedia Enforcement Division (2248–A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone (202) 564–5029; fax: (202) 564–0010; e-mail: *milton.philip@epa.gov.*

SUPPLEMENTARY INFORMATION: *Electronic Copies:* Electronic copies of this document are available from the EPA Home Page under the link ''Laws and Regulations'' at the **Federal Register**—Environmental Documents entry (*http://www.epa.gov/fedrgstr*).

I. Background

IPSCO Steel, Inc., a steel manufacturer located in Muscatine, Iowa and incorporated in the State of Delaware, disclosed, pursuant to the EPA ''Incentives for Self-Policing: Discovery, Disclosure, Correction and Prevention of Violations' (''Audit Policy''), 65 FR 19618 (April 11, 2000), that its SPCC plan failed to include a reference to each of the guidelines found in 40 CFR 112.7, in violation of the CWA section 311(b)(3). Respondent disclosed that it had failed to record furnace pressure, fan amps, and damper positions on a ''once-per-shift'' basis. The NSPS for EAFs, 40 CFR part 60, subpart AAa, requires that furnace pressure, fan amps, and damper positions be checked and recorded on a ''once-per-shift'' basis. The failure to record these readings during separate shifts is a violation of 40 CFR 60.274a(b) and CAA section 111, 42 U.S.C. 7411. Respondent disclosed that it failed to maintain a logbook resulting in violations of requirements in its PSD permit no. 94–A–561–S1 to (1) maintain records of startup, shutdown, and malfunction of its two coiling reheat furnaces; (2) monitor the inlet combustion air temperature and furnace combustion chamber temperature and record any times that the temperature exceeds 2100°F; and (3) monitor percent of excess air supplied to the burners and record times when excess air exceeds 10 percent. Respondent disclosed that it failed to use ''emulsion'' for dust suppression on the slag-haul road in violation of its PSD permit no. 94–A–555–S1. IPSCO's outside contractor, Heckett Multiserve, used water rather than emulsion. Respondent disclosed that three rolloff boxes containing hazardous waste K061 and a 55-gallon drum of spent ethyl acetate were not properly labeled. IPSCO did not properly label rolloff boxes and drum with the words ''Hazardous Wastes'' and the date accumulation commenced, as required by 40 CFR 262.34(a). IPSCO disclosed that its RCRA contingency plan did not identify specifically the location of emergency response and communication equipment in the areas surrounding the emission control baghouse and other areas where hazardous materials are managed, as required by 40 CFR 262.34(a), which incorporates by reference 40 CFR 265.52(e). Respondent disclosed that its RCRA training records were deficient. The records did not include a written job title and description for each position that involves hazardous wastes and the names of those filling each position. Although this information is available at the plant, 40 CFR 262.34, which incorporates by reference 40 CFR 265.16, requires that this information be maintained in one location. Respondent disclosed that its universal waste training program was deficient. IPSCO did not incorporate universal waste training into its RCRA training, which it provides to all employees, as required by 40 CFR 273.16. Finally, Respondent disclosed that three drums of used oil were not properly labeled. IPSCO did not have ''used oil'' labels on three drums containing used oil as required by 40 CFR 279.22.

EPA determined that Respondent met the criteria set out in the Audit Policy for a 100% waiver of the gravity component of the penalty for the CWA violation and certain CAA and RCRA violations. However, Respondent failed to satisfy some of the conditions set forth in the Audit Policy for certain CAA and RCRA violations and was assessed an appropriate and fair civil penalty ($16,790) to settle those violations. As a result, for those violations meeting the audit policy, EPA waived the gravity based penalty ($186,989) and proposed a settlement penalty amount of two thousand, nine hundred and fifty-three dollars ($2,953). Of this amount, $2,809 is attributable to the CAA violations; $77 is attributable to the RCRA violations; and $67 is attributable to the CWA violation. This is the amount of the economic benefit gained by Respondent, attributable to its delayed compliance with the CWA, RCRA, and CAA regulations. The total civil penalty assessed for settlement purposes is nineteen thousand seven hundred and forty-three dollars ($19,743). Respondent has agreed to pay this amount. EPA and Respondent negotiated and reached an administrative consent agreement, following the Consolidated Rules of Practice, 40 CFR 22.13(b), on September 26, 2002 (*In Re: IPSCO Steel, Inc.* Docket Nos. CWA–HQ–2001–6013, CAA–HQ–2001–6013, RCRA–HQ–2001–6013). This consent agreement is subject to public notice and comment under CWA section 311(b)(6), 33 U.S.C. 1321(b)(6).

Under CWA section 311(b)(6)(A), 33 U.S.C. 1321(b)(6)(A), any owner, operator, or person in charge of a vessel, onshore facility, or offshore facility from which oil is discharged in violation of the CWA section 311(b)(3), 33 U.S.C. 1321(b)(3), or who fails or refuses to comply with any regulations that have been issued under CWA section 311(j), 33 U.S.C. 1321(j), may be assessed a Class II civil penalty of up to $137,500 by EPA. Class II proceedings under CWA section 311(b)(6) are conducted in accordance with 40 CFR part 22.

The procedures by which the public may comment on a proposed Class II penalty order, or participate in a Clean Water Act Class II penalty proceeding, are set forth in 40 CFR 22.45. The deadline for submitting public comment on this proposed final order is November 4, 2002. All comments will be transferred to the Environmental Appeals Board (''EAB'') of EPA for consideration. The powers and duties of the EAB are outlined in 40 CFR 22.4(a).

Pursuant to CWA section 311(b)(6)(C), EPA will not issue an order in this proceeding prior to the close of the public comment period.

Dated: September 26, 2002.

Rosemarie A. Kelley,

Acting Director, Multimedia Enforcement Division, Office of Enforcement and Compliance Assurance.

[FR Doc. 02–25157 Filed 10–2–02; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting; Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 7:32 a.m. on Monday, September 30, 2002, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and supervisory activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Director John D. Hawke, Jr. (Comptroller of the Currency), concurred in by Director John M. Reich (Appointive), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: September 30, 2002.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 02–25281 Filed 10–1–02; 2:05 pm]

BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 17, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Lawrence Gohlke, Neshkoro, Wisconsin; Richard Gohlke, Neshkoro, Wisconsin, and Geffrey Sawtelle, Neshkoro, Wisconsin; to acquire voting shares of Golden Sands Bankshares, Inc., Neshkoro, Wisconsin, and thereby indirectly acquire voting shares of Farmers Exchange Bank of Neshkoro, Neshkoro, Wisconsin.

Board of Governors of the Federal Reserve System, September 27, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 02–25093 Filed 10–2–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 17, 2002.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. PrivateBancorp, Inc., Chicago, Illinois; to acquire Lodestar Investment Counsel, LLC, Chicago, Illinois, and thereby engage in financial and advisory activities, pursuant to §§ 225.28(b)(6) of Regulation Y.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166–2034:

1. First Banks, Inc., Saint Louis, Missouri; to indirectly acquire Investment Counselors Incorporated, St. Louis, Missouri; and thereby engage in investment advisory activities, pursuant to § 225.28(b)(6) of Regulation Y.

Board of Governors of the Federal Reserve System, September 27, 2002.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc.02–25094 Filed 10–2–02; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 13, 2002

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open

Market Committee at its meeting held on August 13, 2002.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 1¾ percent.

By order of the Federal Open Market Committee, September 27, 2002.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. 02–25142 Filed 10–02–02; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

White House Initiative on Asian Americans and Pacific Islanders President's Advisory Commission; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following National Advisory body scheduled to conduct a public meeting during the month of October 2002.

Name: President's Advisory Commission on Asian Americans and Pacific Islanders (Commission).

Date and Time: October 11, 2002; 12:30 a.m.–5 p.m. HST.

Location: Hawaii State Capitol, State Capitol Auditorium, 415 S. Beretania Street, Honolulu, HI 96813.

The meeting is open to the public.

The President's Advisory Commission on Asian Americans and Pacific Islanders (AAPIs) will conduct a public meeting on October 11, 2002, from 12:30 p.m. to 5 p.m. HST inclusive.

Agenda items will include, but will not be limited to: testimony from community-based organizations and individuals; testimony from federal, state and local agencies; comments from the public; administrative tasks; deadlines; and upcoming events.

The purpose of the Commission is to advise and make recommendations to the President on ways to increase opportunities for and improve the quality of life of approximately thirteen million AAPIs living in the United States and the U.S.-associated Pacific Island jurisdictions, especially those that are the most underserved.

Requests to address the Commission should be made in writing and should include the name, address, telephone number and business or professional affiliation of the interested party. Individuals or groups addressing similar issues are encouraged to combine comments and make their request to address the Commission through a single representative. The allocation of time for remarks may be adjusted to accommodate the level of expressed interest. Written requests should be faxed to (301) 443–0259.

Anyone who has interest in joining any portion of the meeting or who requires additional information about the Commission should contact: Ms. Betty Lam or Mr. Erik F. Wang, Office of the White House Initiative on AAPIs, Parklawn Building, Room 10–42, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–2492. Anyone who requires special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mr. Wang no later than October 4, 2002.

Dated: September 27, 2002.

Christopher J. McCabe,

Director, Office of Intergovernmental Affairs.

[FR Doc. 02–25118 Filed 10–2–02; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Meeting of the President's Council on Bioethics

AGENCY: The President's Council on Bioethics, HHS.

ACTION: Notice.

SUMMARY: The President's Council on Bioethics will hold its seventh meeting, at which it will discuss, among other things, technological enhancements of human memory; the use of assisted reproduction and other technologies (including PGD) to choose the sex of children; and a presentation by Ms. Suzi Leather, chair of the Human Fertilisation and Embryology Authority (HFEA) of the United Kingdom on how the UK regulates infertility clinics and embryo research. The Council may also touch on subjects discussed at past meetings, including human cloning, embryonic stem cells, and the patentability of human organisms.

DATES: The meeting will take place Thursday, October 17, 2002, from 9 a.m. to 6 p.m. ET; and Friday, October 18, 2002, from 8:30 a.m. to 12:15 p.m. ET.

ADDRESSES: Hotel Monaco, 700 F Street, NW., Washington, DC 20004.

Public Comments: The meeting agenda will be posted at *http://www.bioethics.gov.* Members of the public may submit written statements for the Council's records. Please submit statements to Ms. Diane Gianelli, Director of Communications (tel. 202/296–4669 or e-mail *info@bioethics.gov*). The public may also express comments during the time set aside for this purpose, beginning at 5:15 p.m. ET, on Thursday, October 17, 2002. Comments will be limited to no more than five minutes per speaker or organization. Please give advance notice of such statements to Ms. Gianelli at the phone number given above, and be sure to include name, affiliation, and a brief description of the topic or nature of the statement.

FOR FURTHER INFORMATION CONTACT: Diane Gianelli, 202/296–4669, or visit *http://www.bioethics.gov.*

Dated: September 26, 2002.

Dean Clancy,

Executive Director, The President's Council on Bioethics.

[FR Doc. 02–25117 Filed 10–2–02; 8:45 am]

BILLING CODE 4150–24–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Draft OIG Compliance Program Guidance for Pharmaceutical Manufacturers

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Notice and comment period.

SUMMARY: This **Federal Register** notice seeks the comments of interested parties on draft compliance guidance developed by the Office of Inspector General (OIG) for the pharmaceutical industry. Through this notice, the OIG is setting forth its general views on the value and fundamental principles of compliance programs for pharmaceutical manufacturers and the specific elements that pharmaceutical manufacturers should consider when developing and implementing an effective compliance program.

DATES: To assure consideration, comments must be delivered to the address provided below by no later than 5 p.m. on December 2, 2002.

ADDRESSES: Please mail or deliver written comments to the following address: Office of Inspector General, Department of Health and Human Services, Attention: OIG–8–CPG, Room 5246, Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

We do not accept comments by facsimile (FAX) transmissions. In commenting, please refer to file code OIGB8–CPG. Comments received timely will be available for public inspection as they are received, generally beginning

[1] Copies of the Minutes of the Federal Open Market Committee meeting on August 13, 2002, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

approximately 2 weeks after publication of a document, in Room 5541 of the Office of Inspector General at 330 Independence Avenue, SW., Washington, DC 20201 on Monday through Friday of each week from 8 a.m. to 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mary E. Riordan or Nicole C. Hall, Office of Counsel to the Inspector General, (202) 619–2078.

SUPPLEMENTARY INFORMATION:

Background

Compliance program guidance is a major initiative of the OIG in its effort to engage the health care community in preventing and reducing fraud and abuse in Federal health care programs. The purpose of the compliance program guidance is to encourage the use of internal controls to efficiently monitor adherence to applicable statutes, regulations and program requirements. In the last several years, the OIG has developed and issued compliance program guidance directed at the following segments of the health care industry: The hospital industry; home health agencies; clinical laboratories; third-party medical billing companies; the durable medical equipment, prosthetics, orthotics and supply industry; Medicare+Choice organizations offering coordinated care plans; hospices; nursing facilities; and individual and small group physician practices. The OIG has also issued draft guidance directed at ambulance suppliers. Copies of these compliance program guidances can be found on the OIG Web site at *http://oig.hhs.gov/fraud/complianceguidance.html.*

Developing Draft Compliance Program Guidance for the Pharmaceutical Industry

On June 11, 2001, the OIG published a solicitation notice seeking information and recommendations for developing compliance program guidance for the pharmaceutical industry (66 FR 31246). In response to that solicitation notice, the OIG received eight comments from various outside sources. In developing this draft guidance for formal public comment, we have considered those comments, as well as previous OIG publications, such as other compliance program guidances and Special Fraud Alerts. In addition, we have taken into account past and ongoing fraud investigations conducted by the OIG's Office of Investigations and the Department of Justice, and have consulted with the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration).

This draft guidance for pharmaceutical manufacturers contains seven elements that have been widely recognized as fundamental to an effective compliance program:

- Implementing written policies and procedures;
- Designating a compliance officer and compliance committee;
- Conducting effective training and education;
- Developing effective lines of communication;
- Conducting internal monitoring and auditing;
- Enforcing standards through well-publicized disciplinary guidelines; and
- Responding promptly to detected problems and undertaking corrective action.

These elements are included in previous guidances issued by the OIG. As with previously-issued guidances, this draft compliance program guidance represents the OIG's suggestions on how pharmaceutical manufacturers can establish internal controls to ensure adherence to applicable rules and program requirements. The contents of this guidance should not be viewed as mandatory or as an exclusive discussion of the advisable elements of a compliance program. The document is intended to present voluntary guidance to the industry and not represent binding standards for pharmaceutical manufacturers.

Although the June 11, 2001, solicitation notice requested information and recommendations for developing a compliance program guidance for the pharmaceutical industry generally, the OIG has since decided to focus this draft compliance program guidance specifically on *pharmaceutical manufacturers* and not to address other segments of the pharmaceutical industry, such as retail pharmacies. This decision was reached, in part, in response to comments from both pharmaceutical manufacturers and retail pharmacy chains, suggesting that the differences between pharmaceutical manufacturers and retail pharmacy chains, both in terms of operational issues and compliance issues, are significant enough to warrant addressing them separately.

Public Input and Comment in Developing Final Guidance

In an effort to ensure that all parties have an opportunity to provide input into the OIG's guidance, we are publishing this guidance in draft form. We welcome any comments from interested parties regarding this document. The OIG will consider all comments that are received within the above-cited time frame, incorporate any specific recommendations as appropriate, and prepare a final version of the guidance thereafter for publication in the **Federal Register**. The final version of the guidance will be available though the OIG Web site at *http://oig.hhs.gov.*

Draft Compliance Program Guidance for Pharmaceutical Manufacturers

I. Introduction

The Office of Inspector General (OIG) of the Department of Health and Human Services is continuing in its efforts to promote voluntary compliance programs for the health care industry. This compliance guidance is intended to assist companies that develop, manufacture, market, and sell pharmaceutical drugs or biological products (pharmaceutical manufacturers) in developing and implementing internal controls and procedures that promote adherence to applicable statutes, regulations, and requirements of the Federal health care programs [1] and in evaluating and, as necessary, refining existing compliance programs.

This guidance provides the OIG s views on the fundamental elements of pharmaceutical manufacturer compliance programs and principles that each pharmaceutical manufacturer should consider when creating and implementing an effective compliance program. This guide is not a compliance program. Rather, it is a set of guidelines that pharmaceutical manufacturers should consider when developing and implementing a compliance program or evaluating an existing one. For those manufacturers with an existing compliance program, this guidance may serve as a benchmark or comparison against which to measure ongoing efforts.

A pharmaceutical manufacturer's implementation of an effective compliance program may require a significant commitment of time and resources by various segments of the organization. In order for a compliance program to be effective, it must have the

[1] The term ''Federal health care programs,'' as defined in 42 U.S.C. 1320.a–7b(f), includes any plan or program that provides health benefits, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by the United States government or any state health plan (*e.g.,* Medicaid or a program receiving funds from block grants for social services or child health services). In this document, the term ''Federal health care program requirements'' refers to the statutes, regulations and other rules governing Medicare, Medicaid, and all other Federal health care programs.

support and commitment of senior management and the company's governing body. In turn, the corporate leadership should strive to foster a culture that promotes the prevention, detection, and resolution of instances of problems. Although an effective compliance program may require a reallocation of existing resources, the long-term benefits of establishing a compliance program significantly outweigh the initial costs.

In a continuing effort to collaborate closely with the pharmaceutical industry, the OIG published a notice in the **Federal Register** soliciting comments and recommendations on what should be included in this compliance program guidance.[2] In addition to considering the comments received in response to that solicitation notice, in drafting this guidance we reviewed previous OIG publications, including OIG advisory opinions, safe harbor regulations (including the preambles) relating to the Federal anti-kickback statute,[3] Special Fraud Alerts, as well as reports issued by the OIG's Office of Audit Services and Office of Evaluation and Inspections relevant to the pharmaceutical industry. (These materials are available on the OIG Web page at *http://oig.hhs.gov*.) In addition, we relied on the experience gained from investigations of pharmaceutical manufacturers conducted by OIG's Office of Investigations, the Department of Justice, and the state Medicaid Fraud Control Units.

A. Benefits of a Compliance Program

The OIG believes a comprehensive compliance program provides a mechanism that addresses the public and private sectors' mutual goals of reducing fraud and abuse; enhancing health care provider operational functions; improving the quality of health care services; and reducing the cost of health care. Attaining these goals provides positive results to the pharmaceutical manufacturer, the government, and individual citizens alike. In addition to fulfilling its legal duty to avoid submitting false or inaccurate pricing or rebate information to any Federal health care program or illegal marketing activities, a pharmaceutical manufacturer may gain important additional benefits by voluntarily implementing a compliance program. The benefits may include:

- A concrete demonstration to employees and the community at large of the company's commitment to honest and responsible corporate conduct;
- An increased likelihood of preventing, or at least identifying, and correcting unlawful and unethical behavior at an early stage;
- A mechanism to encourage employees to report potential problems and allow for appropriate internal inquiry and corrective action; and
- Through early detection and reporting, minimizing any financial loss to the government and any corresponding financial loss to the company.

The OIG recognizes that the implementation of a compliance program may not entirely eliminate improper conduct from the operations of a pharmaceutical manufacturer. However, a good faith effort by the company to comply with applicable statutes and regulations as well as Federal health care program requirements, demonstrated by an effective compliance program, significantly reduces the risk of unlawful conduct and any penalties that result from such behavior.

A. Application of Compliance Program Guidance

Given the wide diversity within the pharmaceutical industry, there is no single best pharmaceutical manufacturer compliance program. The OIG recognizes the complexities of this industry and the differences among industry members. Some pharmaceutical manufacturers are small and may have limited resources to devote to compliance measures. Conversely, other companies are well-established, large multi-national corporations with a widely dispersed work force. Some companies may have well-developed compliance programs already in place; others only now may be initiating such efforts. The OIG also recognizes that pharmaceutical manufacturers are subject to extensive regulatory requirements in addition to fraud and abuse-related issues and that many pharmaceutical manufacturers have addressed these obligations through compliance programs. Accordingly, the OIG strongly encourages pharmaceutical manufactures to develop and implement or refine (as necessary) compliance elements that uniquely address the areas of potential problems, common concern, or high risk that apply to their own companies (or, as applicable, to the U.S. operations of their companies).

For example, although they are not exhaustive of all potential risk areas, the OIG has identified three major potential risk areas for pharmaceutical manufacturers: (1) Integrity of data used by state and Federal governments to establish payment; (2) kickbacks and other illegal remuneration; and (3) compliance with laws regulating drug samples. The risk areas are discussed in greater detail in section II.B.2. below. The compliance measures adopted by a pharmaceutical manufacturer should be tailored to fit the unique environment of the company (including its organizational structure, operations and resources, as well as prior enforcement experience). In short, the OIG recommends that each pharmaceutical manufacturer should adapt the objectives and principles underlying the measures outlined in this guidance to its own particular circumstances.

II. Compliance Program Elements

A. The Basic Compliance Elements

The OIG believes that every effective compliance program must begin with a formal commitment by the pharmaceutical manufacturer's board of directors or other governing body. Evidence of that commitment should include the allocation of adequate resources, a timetable for the implementation of the compliance measures, and the identification of an individual to serve as a compliance officer to ensure that each of the recommended and adopted elements is addressed. Once a commitment has been undertaken, a compliance officer should immediately be chosen to oversee the implementation of the compliance program.

The elements listed below provide a comprehensive and firm foundation upon which an effective compliance program may be built. Further, they are likely to foster the development of a corporate culture of compliance. The OIG recognizes that full implementation of all elements may not be immediately feasible for all pharmaceutical manufacturers. However, as a first step, a good faith and meaningful commitment on the part of the company's management will substantially contribute to the program's successful implementation. As the compliance program is implemented, that commitment should filter down through management to every employee and contractor of the pharmaceutical manufacturer, as applicable for the particular individual.

At a minimum, a comprehensive compliance program should include the following elements:

(1) The development and distribution of written standards of conduct, as well as written policies, procedures and protocols that verbalize the company's

[2] *See* 66 FR 31246 (June 11, 2001), ''Notice for Solicitation of Information and Recommendations for Developing a Compliance Program Guidance for the Pharmaceutical Industry.''

[3] 42 U.S.C. 1320a–7b(b).

commitment to compliance (*e.g.*, by including adherence to the compliance program as an element in evaluating management and employees) and address specific areas of potential fraud and abuse, such as the reporting of pricing and rebate information to the Federal health care programs, and sales and marketing practices;

(2) The designation of a compliance officer and other appropriate bodies (*e.g.*, a corporate compliance committee) charged with the responsibility for developing, operating, and monitoring the compliance program, and with authority to report directly to the board of directors and/or the president or CEO;

(3) The development and implementation of regular, effective education and training programs for all affected employees;

(4) The creation and maintenance of an effective line of communication between the compliance officer and all employees, including a process (such as a hotline or other reporting system) to receive complaints or questions, and the adoption of procedures to protect the anonymity of complainants and to protect whistle blowers from retaliation;

(5) The use of audits and/or other risk evaluation techniques to monitor compliance, identify problem areas, and assist in the reduction of identified problems;

(6) The development of policies and procedures addressing the non-employment or retention of excluded individuals or entities, and the enforcement of appropriate disciplinary action against employees or contractors who have violated company policies and procedures and/or applicable Federal health care program requirements; and

(7) The development of policies and procedures for the investigation of identified instances of non-compliance or misconduct. These should include directions regarding the prompt and proper response to detected offenses, such as the initiation of appropriate corrective action and preventive measures.

B. Written Policies and Procedures

In developing a compliance program, every pharmaceutical manufacturer should develop and distribute written compliance standards, procedures, and practices that guide the company and the conduct of its employees in day-to-day operations. These policies and procedures should be developed under the direction and supervision of the compliance officer, the compliance committee, and operational managers. At a minimum, the policies and procedures should be provided to all employees who are affected by these policies, and to any agents or contractors who may furnish services that impact Federal health care programs (*e.g.*, contractors involved in the co-promotion of a manufacturer's products).

1. Code of Conduct

Although a clear statement of detailed and substantive policies and procedures is at the core of a compliance program, the OIG recommends that pharmaceutical manufacturers also develop a general corporate statement of ethical and compliance principles that will guide the company's operations. One common expression of this statement of principles is the code of conduct. The code should function in the same fashion as a constitution, *i.e.*, as a document that details the fundamental principles, values, and framework for action within an organization. The code of conduct for a pharmaceutical manufacturer should articulate the company's expectations of commitment to compliance by management, employees, and agents, and should summarize the broad ethical and legal principles under which the company must operate. Unlike the more detailed policies and procedures, the code of conduct should be brief, easily readable, and cover general principles applicable to all employees.

As appropriate, the OIG strongly encourages the participation and involvement of the pharmaceutical manufacturer s board of directors, CEO, president, members of senior management, and other personnel from various levels of the organizational structure in the development of all aspects of the compliance program, especially the code of conduct. Management and employee involvement in this process communicates a strong and explicit commitment by management to foster compliance with applicable Federal health care program requirements. It also communicates the need for all employees to comply with the organization's code of conduct and policies and procedures.

2. Specific Risk Areas

This section addresses the following major risk areas for pharmaceutical manufacturers: (1) Integrity of data used by state and Federal governments to establish payment; (2) kickbacks and other illegal remuneration; and (3) compliance with laws regulating drug samples. This section focuses on areas that are currently of most concern to the enforcement community and is not intended to be exhaustive of all potential risk areas for pharmaceutical manufacturers.

a. Integrity of Data Used to Establish Government Reimbursement. Many Federal and state health care programs establish reimbursement rates for pharmaceuticals, either prospectively or retrospectively, using price and sales data directly or indirectly furnished by pharmaceutical manufacturers. The government sets reimbursement with the expectation that the data provided are complete and accurate. The knowing submission of false, fraudulent, or misleading information is actionable. A pharmaceutical manufacturer may be liable under the False Claims Act,[4] if government reimbursement (including, but not limited to, reimbursement by Medicare and Medicaid) for the manufacturer s product depends, in whole or in part, on information generated or reported by the manufacturer, directly or indirectly, and the manufacturer has knowingly (as defined in the False Claims Act) failed to generate or report such information completely and accurately. Manufacturers may also be liable for civil money penalties under various laws, rules and regulations. Moreover, in some circumstances, inaccurate or incomplete reporting may be probative of liability under the Federal anti-kickback statute.

Where appropriate, manufacturers reported prices should accurately take into account price reductions, rebates, up-front payments, coupons, goods in kind, free or reduced price services, grants, or other price concessions or similar benefits offered to some or all purchasers. If a discount, price concession, or similar benefit is offered on purchases of multiple products, the discount, price concession, or similar benefit should be fairly apportioned among the products. Underlying assumptions used in connection with reported prices should be reasoned, consistent, and appropriately documented, and pharmaceutical manufacturers should retain all relevant records reflecting reported prices and efforts to comply with Federal health care program requirements.

Given the importance of the Medicaid Rebate Program, as well as other programs that rely on Medicaid Rebate Program benchmarks (such as the 340B

[4] The False Claims Act (31 U.S.C. 3729–33) prohibits knowingly presenting (or causing to be presented) to the Federal government a false or fraudulent claim for payment or approval. Additionally, it prohibits knowingly, making, or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved by the Federal government or its agents, like a carrier, other claims processor, or state Medicaid program.

Program [5]), manufacturers should pay particular attention to ensuring that they are calculating Average Manufacturer Price and Best Price accurately and that they are paying appropriate rebate amounts for their drugs.[6]

In sum, pharmaceutical manufacturers are responsible for ensuring the integrity of data they generate that is used for government reimbursement purposes.

b. Kickbacks and Other Illegal Remuneration. Pharmaceutical manufacturers, as well as their employees and agents, should be aware of the Federal anti-kickback statute, and the constraints it places on the marketing and promotion of products reimbursable by the Federal health care programs. The anti-kickback statute is a criminal prohibition against payments (in any form, whether the payments are direct or indirect) made purposefully to induce or reward referrals of Federal health care business. The anti-kickback statute potentially implicates not only the offer or payment of anything of value for patient referrals, but also the offer or payment of anything of value in return for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or ordering of any item or service reimbursable in whole or part by a Federal health care program. Under certain circumstances, a violation of the anti-kickback statute may give rise to liability under the False Claims Act.

Activities that fit squarely in one of the safe harbors set forth in 42 CFR 1001.952 are deemed immune from sanction under the anti-kickback statute. We recommend that pharmaceutical manufacturers structure their arrangements to fit in a safe harbor whenever possible. Potentially relevant safe harbors include: personal services and management contracts, warranties, discounts, employees, group purchasing organization arrangements, and shared risk arrangements. Even where an arrangement cannot be structured to fit in a safe harbor, the safe harbor regulations (and accompanying **Federal Register** preambles) provide valuable guidance for assessing risk of abuse under the anti-kickback statute. In addition, parties seeking guidance about their particular arrangements may apply for an OIG advisory opinion using the procedures set out at 42 CFR part 1008.

The following discussion addresses key areas of potential risk under the anti-kickback statute arising from pharmaceutical manufacturers relationships with three groups: purchasers; physicians and other health care professionals; and sales agents. This discussion is intended to be illustrative, not exhaustive, of potential risk areas.

(1) *Relationships with Purchasers. (a) Discounts and Other Terms of Sale.* Pharmaceutical manufacturers offer customers a variety of price concessions and similar benefits to induce the purchase of their products. Such inducements potentially implicate the anti-kickback statute if the products are reimbursable to the customers, in whole or in part, directly or indirectly, by any of the Federal health care programs. Moreover, price concessions and similar benefits offered to a wholesaler potentially implicate the statute if the concessions or benefits are offered to induce the wholesaler to purchase the products and to recommend the products to, or arrange for the purchase of the products by, customers that submit claims to the Federal health care programs. Finally, incentive payments to GPOs, PBMs, and other persons or entities in a position to influence the purchase of a manufacturers's products, but that do not themselves purchase the products, also potentially implicate the anti-kickback statute.

Discounts. The anti-kickback statute contains a broad exception for discounts offered to customers that submit claims to the Federal health care programs, if the discounts are properly disclosed and accurately reported. *See* 42 U.S.C. 1320a–7b(b)(3)(A); 42 CFR 1001.952(h). However, to qualify for the exception, the discount must be in the form of *a reduction in the price* of the good or service based on an arms-length transaction. In other words, the exception covers only actual reductions in the product's price. Moreover, the regulations provide that the discount must be given at the time of sale or, in certain cases, set at the time of sale, even if finally determined subsequent to the time of sale (*i.e.*, a rebate). Other kinds of price concessions (including, but not limited to, discounts on other products, other free or reduced price goods or services, ''educational'' or other grants, ''conversion payments,'' signing bonuses, or ''up-front rebates'') do not qualify for the discount exception and should be carefully reviewed.

Manufacturers offering discounts should thoroughly familiarize themselves, and have their sales and marketing personnel familiarize themselves, with the discount safe harbor at 42 CFR 1001.952(h). In particular, manufacturers should pay attention to the safe harbor requirements applicable to ''sellers'' and ''offerors'' of discounts. Under the safe harbor, sellers and offerors have specific obligations that include (i) informing a customer of any discount and of the customer's reporting obligations with respect to that discount and (ii) refraining from any action that would impede a customer's ability to comply with the safe harbor. To fulfill the safe harbor requirements, manufacturers will need to know how their customers submit claims to the Federal health care programs (*e.g.*, whether the customer is a managed care, cost-based, or charge-based biller).

Other terms of sale. Any remuneration provided as part of a sale, other than a price reduction covered by the discount exception, potentially implicates the anti-kickback statute. Non-price terms of sale make it difficult to ensure that the value of the remuneration is appropriately apportioned and accurately reported and that costs are not shifted disproportionately from private payers to the Federal health care programs. Arrangements involving such non-price terms should be evaluated on a case-by-case basis. Arrangements that may increase the risk of overutilization, higher government program costs, inappropriate steering of Federal health care business, or unfair competition are particularly suspect.

Pharmaceutical manufacturers sometimes offer certain services in connection with the sale of their products. Such services include, among other things, product-related billing assistance programs, reimbursement consultation, or other types of programs. Any time a pharmaceutical manufacturer provides free or below market rate goods or services to a purchaser (or other potential referral source, such as a physician who might prescribe a manufacturer s product or a PBM that might put it on a formulary), it should examine whether it is providing a valuable tangible benefit to the recipient with the intent to induce or reward referrals. For example, a manufacturer should examine whether the services are made available to all customers or only to a select group (*e.g.*, high volume prescribers). If the purchaser or referral source is in a position to make or influence referrals, and if the goods or services provided by the manufacturer eliminate an expense that the purchaser or referral source

[5] The 340 B program, contained as part of the Public Health Services Act and codified at 42 U.S.C. 256b, is administered by the Health Resources and Services Administration (HRSA).

[6] 42 U.S.C. 1396r–8. Average Manufacturer Price are defined in the statute at 42 U.S.C. 1396r–8(k)(1) and 1396r–8(c)(1), respectively. CMS has provided further guidance on these terms in the National Drug Rebate Agreement and in Medicaid Program Releases available through its Web site at *http:www.hcfa.gov/medicaid/drugs/drug.mpg.htm.*

would have otherwise incurred, the arrangement is likely to be problematic from a kickback perspective. Similarly, if a manufacturer provides a service having no independent value (such as limited reimbursement support services in connection with its own products) in tandem with another service or program that confers a benefit on a referring provider (such as one that eliminates normal financial risks), the arrangement could raise kickback concerns. For example, the anti-kickback statute would be implicated if a manufacturer were to couple a reimbursement support service with (i) a requirement that a purchaser pay for ordered products only if the purchaser is paid or (ii) a guarantee of a minimum ''spread'' between the purchase price and third party reimbursement levels.

(b) *Average Wholesale Price*. The ''spread'' is the difference between the amount a customer pays for a product and the amount the customer receives upon resale of the product to the patient or other payer. In many situations under the Federal programs, pharmaceutical manufacturers control not only the amount at which they sell a product to their customers, but also the amount those customers who purchase the product for their own accounts and thereafter bill the Federal health care programs will be reimbursed. A subset of the manufacturer's customers, including certain medical specialists, PBMs, HMOs, and institutional providers, are also in a position to influence substantially a physician's or other health care professional's selection of the product. To the extent that a manufacturer controls the ''spread,'' it controls its customer's profit.

Average Wholesale Price (AWP) is the benchmark often used to set reimbursement for prescription drugs under the Medicare Part B program. For covered drugs and biologicals, Medicare Part B generally reimburses at ''95 percent of average wholesale price.'' 42 U.S.C. 1395u(o). Similarly many state Medicaid programs and other payers base reimbursement for drugs and biologicals on AWP. Generally, AWP is reported directly by pharmaceutical manufacturers.

A pharmaceutical manufacturer's purposeful manipulation of the AWP to increase its customers profits by increasing the amount the Federal health care programs reimburse its customers implicates the anti-kickback statute. Unlike *bona fide* discounts, which transfer remuneration from a seller to a buyer, manipulation of the AWP transfers remuneration to a seller's immediate customer from a subsequent purchaser (the Federal or state government). Under the anti-kickback statute, offering remuneration to a purchaser or referral source is improper if one purpose is to induce the purchase or referral of program business.

In the light of this risk, the OIG recommends that manufacturers review their AWP reporting practices and methodology to confirm that marketing considerations do not influence the process. Furthermore, manufacturers should review their marketing practices. Manipulation of the AWP to induce customers to purchase a product, coupled with active marketing of the spread is evidence of the unlawful intent necessary to trigger the anti-kickback statute. Active marketing of the spread includes, for example, sales representatives promoting the spread as a reason to purchase the product or guaranteeing a certain profit or spread in exchange for the purchase of a product.

(2) *Relationships with Physicians and Other Health Care Professionals*. Pharmaceutical manufacturers and their agents may have a variety of remunerative relationships with physicians and other health care professionals who order or prescribe their products. As these relationships may implicate the anti-kickback statute, they should be examined carefully. Relationships with particular parties should be evaluated individually and in the aggregate. The following discussion highlights some of the most significant areas of potential risk.

''Switching'' arrangements. As noted in the 1994 Special Fraud Alert (59 FR 65372; December 19, 1994), product conversion arrangements (also known as ''switching'' arrangements) are suspect under the anti-kickback statute. Switching arrangements involve pharmaceutical manufacturers offering pharmacies, PBMs, physicians or other prescribers cash payments or other benefits each time a patient's prescription is changed to the manufacturer's product from a competing product. This activity implicates the statute, and, while such programs may be permissible in certain managed care arrangements, manufacturers should review any marketing practices utilizing ''switching'' payments in connection with products reimbursable by Federal health care programs very carefully. In addition, arrangements that have the effect of rewarding switching indirectly should also be carefully reviewed. Such arrangements include payments by pharmaceutical manufacturers to pharmacies, PBMs, or others for contacting patients or their physicians to encourage them change a prescription from another product to the company's product, and discounts or rebates based on movement of market share.

Consulting and advisory payments. Pharmaceutical manufacturers frequently engage physicians and other health care professionals to act as ''consultants,'' ''advisors,'' or ''researchers'' in connection with various types of marketing and research activities. For instance, pharmaceutical manufacturers may engage physicians to perform research, data collection, and consulting services, to serve on advisory boards, to participate in focus groups, or to speak at meetings. While there may be legitimate purposes to these arrangements, they pose a substantial risk of fraud and abuse; without appropriate safeguards, they can result in payments for referrals.

Pharmaceutical manufacturers should ensure that they (and their sales agents) compensate health care professionals only for providing actual, reasonable, and necessary services and that the arrangements are not merely token arrangements created to disguise otherwise improper payments. Moreover, payments should be fair market value for the services rendered, and manufacturers should take steps to ensure appropriate documentation of the fair market value determination, as well as the performance of the services. Whenever possible, the OIG recommends that consulting and advisory arrangements be structured to fit in the personal services safe harbor (42 CFR 1001.952(d)).

Other remuneration. Pharmaceutical companies and their employees and agents engage in a number of other arrangements that offer benefits, directly or indirectly, to physicians or others in a position to make or influence referrals. These arrangements potentially implicate the anti-kickback statute. They include:

- Entertainment, recreation, travel, meals, or other benefits in association with information or marketing presentations;
- Sponsorship or other financing related to third-party educational conferences and meetings attended or taught by physicians or others in a position to generate or influence referrals;
- Scholarships and educational funds;
- Grants for research and education; and
- Gifts, gratuities, and other business courtesies.

These practices raise a particular risk where they involve parties in a position to prescribe or order the manufacturer's

products or to influence such prescriptions or orders. These parties include physicians and other health care professionals, as well as PBMs, GPOs, hospital systems, and the like.

With respect to these practices, a good starting point for compliance purposes is the ''PhRMA Code on Interactions with Healthcare Professionals'' (the ''PhRMA Code''), a voluntary code promulgated by the Executive Committee of the Pharmaceutical Research and Manufacturers of America (PhRMA), that became effective July 1, 2002. It is available through PhRMA's Web site at *http://www.phrma.org*. The PhRMA Code provides useful guidance for evaluating relationships with physicians and other health care professionals. The OIG recommends that pharmaceutical manufacturers at a minimum comply with the standards set by the PhRMA Code. Arrangements that fail to meet the minimum standards set out in the PhRMA Code are likely to receive increased scrutiny from government authorities.

While the PhRMA Code provides important and practicable benchmarks for manufacturers and government when evaluating practices involving gifts, gratuities, and other benefits, it must be understood that compliance with the relevant sections of the PhRMA Code will not necessarily protect a manufacturer from prosecution or liability for illegal conduct. Thus, all arrangements should be reviewed with the following issues, among others, in mind:

- Is the gift or other benefit made to a person in a position to generate or influence business for the paying party?
- Does the gift or other benefit take into account, directly or indirectly, the volume or value of business generated (*e.g.*, is the payment or gift only given to persons who have prescribed or agree to prescribe the product)?
- Is the gift or benefit more than nominal in value and/or does it exceed the fair market value of any legitimate service rendered to payer?
- Is the gift or benefit unrelated to any services at all other than the referral of Federal health care business?

(3) *Relationships with Sales Agents.* Sales agents, whether employees or independent contractors, are in the business of recommending or arranging for the purchase of the items or services they offer for sale on behalf of the pharmaceutical manufacturer they represent. Accordingly, any compensation arrangement between a pharmaceutical manufacturer and a sales agent for the purpose of selling health care items or services that are directly or indirectly reimbursable by a Federal health care program potentially implicates the anti-kickback statute, irrespective of the methodology used to compensate the agent. In addition, sales agents may engage in improper marketing and promotional activities that may give rise to manufacturer liability. Of particular concern are situations in which a sales agent's express or implied duties include offering or paying remuneration (in any form) to purchasers or prescribers of the pharmaceutical manufacturer's products or in which a sales agent's compensation methodology creates an undue incentive to engage in aggressive marketing or promotional practices.

As an initial matter, the safe harbors for personal services arrangements and employment, 42 CFR 1001.952(d) and (i), are available to protect many compensation arrangements with sales agents. While compliance with safe harbors is voluntary and failure to comply does not necessarily mean that an arrangement violates the anti-kickback statute, the OIG strongly recommends that manufacturers structure their relationships with their sales force to fit in a safe harbor whenever possible. Compensation arrangements with sales personnel that do not fit in a safe harbor should be reviewed carefully.

It is in a pharmaceutical manufacturer's best interests to: (i) Develop a regular and comprehensive training program for its sales force, including refresher and updated training on a regular basis, either in person or through newsletters, memoranda, or the like; (ii) institute and implement corrective action and disciplinary policies applicable to sales agents who engage in improper marketing; (iii) avail itself of the advisory opinion process if it has questions about particular practices used by its sales force; and (iv) establish an effective system for tracking, compiling, and reviewing information about sales force activities.

c. *Drug Samples.* The provision of drug samples is a widespread industry practice that can benefit patients, but can also be an area of potential risk to a pharmaceutical manufacturer. The Prescription Drug Marketing Act of 1987 (PDMA) governs the distribution of drug samples and forbids their sale. 21 U.S.C. 353(c)(1). A drug sample is defined to be a unit of the drug ''that is not intended to be sold * * * and is intended to promote the sale of the drug''. 21 U.S.C. 353(c)(1). Failure to comply with the requirements of PDMA can result in PDMA sanctions. In some circumstances, if the samples have monetary value to the recipient (*e.g.*, a physician) and are used to treat Federal health care program beneficiaries, the provision of samples may also trigger potential False Claims Acts or kickback liability.

Pharmaceutical manufacturers should closely follow the PDMA requirements (including all documentation requirements). In addition, manufacturers can minimize their risk of liability by (i) training their sales force to inform sample recipients in a meaningful manner that samples may not be sold or billed; (ii) clearly and conspicuously labeling individual samples as units that may not be sold; and (iii) including on packaging and any documentation related to the samples (such as shipping notices or invoices) a clear and conspicuous notice that the samples are subject to PDMA and may not be sold. Recent government enforcement activity has focused on instances in which drug samples were provided to physicians who, in turn, sold them to the patient or billed them to the Federal health care programs on behalf of the patient.

C. Designation of a Compliance Officer and a Compliance Committee

1. Compliance Officer

Every pharmaceutical manufacturer should designate a compliance officer to serve as the focal point for compliance activities. This responsibility may be the individual's sole duty or added to other management responsibilities, depending upon the size and resources of the company and the complexity of the task. If the individual has additional management responsibilities, the pharmaceutical manufacturer should ensure that the individual is able to dedicate adequate and substantive time and attention to the compliance functions. Similarly, if the compliance officer delegates some of the compliance duties, he or she should, nonetheless, remain sufficiently involved to fulfill the compliance oversight function.

Designating a compliance officer with the appropriate authority is critical to the success of the program, necessitating the appointment of a high-level official with direct access to the company's president or CEO, board of directors, all other senior management, and legal counsel. The compliance officer should have sufficient funding, resources, and staff to perform his or her responsibilities fully. The compliance officer should be able to effectuate change within the organization as necessary or appropriate and to exercise independent judgment. Optimal placement of the compliance officer within the organization will vary

according to the particular situation of a manufacturer.[7]

Coordination and communication with other appropriate individuals or business units are the key functions of the compliance officer with regard to planning, implementing or enhancing, and monitoring the compliance program. The compliance officer's primary responsibilities should include:

- Overseeing and monitoring implementation of the compliance program; [8]
- Reporting on a regular basis to the company's board of directors, CEO or president, and compliance committee (if applicable) on compliance matters and assisting these individuals or groups to establish methods to reduce the company's vulnerability to fraud and abuse;
- Periodically revising the compliance program, as appropriate, to respond to changes in the company's needs and applicable Federal health care program requirements, identified weakness in the compliance program, or identified systemic patterns of non-compliance;
- Developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the compliance program, and seeking to ensure that all affected employees and management understand and comply with pertinent Federal and state standards;
- Ensuring that independent contractors and agents, particularly those agents and contractors who are involved in sales and marketing activities, are aware of the requirements of the company's compliance program with respect to sales and marketing activities, among other things;
- Coordinating personnel issues with the company's Human Resources/ Personnel office (or its equivalent) to ensure that the List of Excluded Individuals/Entities [9] has been checked with respect to all employees and independent contractors;
- Assisting the company's internal auditors in coordinating internal compliance review and monitoring activities;
- Reviewing and, where appropriate, acting in response to reports of non-compliance received through the hotline (or other established reporting mechanism) or otherwise brought to his or her attention (*e.g.*, as a result of an internal audit or by corporate counsel who may have been notified of a potential instance of non-compliance);
- Independently investigating and acting on matters related to compliance. To that end, the compliance officer should have the flexibility to design and coordinate internal investigations (*e.g.*, responding to reports of problems or suspected violations) and any resulting corrective action (*e.g.*, making necessary improvements to policies and practices, and taking appropriate disciplinary action) with various company divisions or departments;
- Participating with the company s counsel in the appropriate reporting of any self-discovered violations of Federal health care program requirements; and
- Continuing the momentum and, as appropriate, revision or expansion of the compliance program after the initial years of implementation.[10]

The compliance officer must have the authority to review all documents and other information relevant to compliance activities. This review authority should enable the compliance officer to examine interactions with government programs to determine whether the company is in compliance with Federal health care program reporting and rebate requirements and to examine interactions with health care professionals that could violate kickback prohibitions or other Federal health care programs requirements. Where appropriate, the compliance officer should seek the advice of competent legal counsel about these matters.

2. Compliance Committee

The OIG recommends that a compliance committee be established to advise the compliance officer and assist in the implementation of the compliance program.[11] When developing an appropriate team of people to serve as the pharmaceutical manufacturer s compliance committee, the company should consider a variety of skills and personality traits that are expected from the team members. The company should expect its compliance committee members and compliance officer to demonstrate high integrity, good judgment, assertiveness, and an approachable demeanor, while eliciting the respect and trust of company employees. These interpersonal skills are as important as the professional experience of the compliance officer and each member of the compliance committee.

Once a pharmaceutical manufacturer chooses the people who will accept the responsibilities vested in members of the compliance committee, the company needs to train these individuals on the policies and procedures of the compliance program, as well as how to discharge their duties. The OIG recognizes that some pharmaceutical manufacturers (*e.g.*, small companies or those with limited budgets) may not have the resources or the need to establish a compliance committee. However, when potential problems are identified at such companies, the OIG recommends the creation of a task force to address the particular issues. The members of the task force may vary depending upon the area of concern. For example, if the compliance officer identifies issues relating to improper inducements to the company's purchasers or prescribers, the OIG recommends that a task force be organized to review the arrangements and interactions with those purchasers or prescribers. In essence, the compliance committee is an extension of the compliance officer and provides the organization with increased oversight.

[7] The OIG believes it is generally not advisable for the compliance function to be subordinate to the pharmaceutical manufacturer's general counsel, or comptroller or similar financial officer. Separation of the compliance function helps to ensure independent and objective legal reviews and financial analysis of the company's compliance efforts and activities. By separating the compliance function from the key management positions of general counsel or chief financial officer (where the size and structure of the pharmaceutical manufacturer make this a feasible option), a system of checks and balances is established to more effectively achieve the goals of the compliance program.

[8] For companies with pharmaceutical manufacturers multiple divisions or regional offices, the OIG encourages coordination with each company location through the use of a compliance officer located in corporate headquarters who is able to communicate with parallel compliance liaisons in each division or regional office, as appropriate.

[9] As part of its commitment to compliance, a pharmaceutical manufacturer should carefully consider whether to hire or do business with individuals or entities that have been sanctioned by the OIG. The List of Excluded Individuals and Entities can be checked electronically and is accessible through the OIG's Web site at: *http://oig.hhs.gov.*

[10] There are many approaches the compliance officer may enlist to maintain the vitality of the compliance program. Periodic on-site visits of regional operations, bulletins with compliance updates and reminders, distribution of audiotapes, videotapes, CD–ROMs, or computer notifications about different risk areas, lectures at management and employee meetings, and circulation of recent articles or publications discussing fraud and abuse are some examples of approaches the compliance officer may employ.

[11] The compliance committee benefits from having the perspectives of individuals with varying responsibilities and areas of knowledge in the organization, such as operations, finance, audit, human resources, legal, and sales and marketing, as well as employees and managers of key operating units. The compliance officer should be an integral member of the committee. All committee members should have the requisite seniority and comprehensive experience within their respective departments to recommend and implement any necessary changes to policies and procedures.

D. Conducting Effective Training and Education

The proper education and training of officers, directors, employees, contractors, and agents, and periodic retraining of personnel at all levels are critical elements of an effective compliance program. A pharmaceutical manufacturer must take steps to communicate effectively its standards and procedures to all affected personnel by requiring participation in appropriate training programs and by other means, such as disseminating publications that explain specific requirements in a practical manner. These training programs should include general sessions summarizing the manufacturer's compliance program, written standards, and applicable Federal health care program requirements. All employees and, where feasible and appropriate, contractors should receive the general training. More specific training on issues, such as (i) the anti-kickback statute and how it applies to pharmaceutical sales and marketing practices and (ii) the calculation and reporting of pricing information and payment of rebates in connection with Federal health care programs, should be targeted at those employees and contractors whose job requirements make the information relevant. The specific training should be tailored to make it as meaningful as possible for the participants.

Managers and employees of specific divisions can assist in identifying specialized areas that require training and in carrying out such training. Additional areas for training may also be identified through internal audits and monitoring and from a review of any past compliance problems of the pharmaceutical manufacturer or similarly-situated companies. Training instructors may come from outside or inside the organization, but must be qualified to present the subject matter involved and sufficiently experienced in the issues presented to adequately field questions and coordinate discussions among those being trained. Ideally, training instructors should be available for follow-up questions after the formal training session has been conducted.

The pharmaceutical manufacturer should train new employees soon after they have started working. Training programs and materials should be designed to take into account the skills, experience, and knowledge of the individual trainees. The compliance officer should document any formal training undertaken by the company as part of the compliance program. The company should retain adequate records of its training of employees, including attendance logs, descriptions of the training sessions, and copies of the material distributed at training sessions.

The OIG suggests that all relevant personnel (*i.e.*, employees as well as agents of the pharmaceutical manufacturer) participate in the various educational and training programs of the company. For example, for sales representatives who are responsible for the sale and marketing of the company's products, periodic training in the anti-kickback statute and its safe harbors should be required. Employees should be required to have a minimum number of educational hours per year, as appropriate, as part of their employment responsibilities.

The OIG recognizes that the format of the training program will vary depending upon the size and resources of the pharmaceutical manufacturer. For example, a company with limited resources or whose sales force is widely dispersed may want to create a videotape or computer-based program for each type of training session so new employees and employees outside of central locations can receive training in a timely manner. If videos or computer-based programs are used for compliance training, the OIG suggests that the company make a qualified individual available to field questions from trainees. Also, large pharmaceutical manufacturers may find training via the Internet or video conference capabilities to be a cost-effective means of reaching a large number of employees. Alternatively, large companies may include training sessions as part of regularly scheduled regional meetings.

The OIG recommends that participation in training programs be made a condition of continued employment and that failure to comply with training requirements should result in disciplinary action. Adherence to the training requirements as well as other provisions of the compliance program should be a factor in the annual evaluation of each employee.

E. Developing Effective Lines of Communication

1. Access to Supervisors and/or the Compliance Officer

In order for a compliance program to work, employees must be able to ask questions and report problems. Supervisors play a key role in responding to employee concerns and it is appropriate that they serve as a first line of communications. Pharmaceutical manufacturers should consider the adoption of open-door policies in order to foster dialogue between management and employees. In order to encourage communications, confidentiality and non-retaliation policies should also be developed and distributed to all employees.[12]

Open lines of communication between the compliance officer and employees are equally important to the successful implementation of a compliance program and the reduction of any potential for fraud and abuse. In addition to serving as a contact point for reporting problems and initiating appropriate responsive action, the compliance officer should be viewed as someone to whom personnel can go to get clarification on the company's policies. Questions and responses should be documented and dated and, if appropriate, shared with other staff so that compliance standards or policies can be updated and improved to reflect any necessary changes or clarifications. Pharmaceutical manufacturers may also consider rewarding employees for appropriate use of established reporting systems as a way to encourage the use of such systems.

2. Hotlines and Other Forms of Communication

The OIG encourages the use of hotlines, e-mails, newsletters, suggestion boxes, and other forms of information exchange to maintain open lines of communication. In addition, an effective employee exit interview program could be designed to solicit information from departing employees regarding potential misconduct and suspected violations of company policy and procedures. Pharmaceutical manufacturers may also identify areas of risk or concern through periodic surveys or communications with sales representatives about the current marketing environment. This could provide management with insight about and an opportunity to address conduct occurring in the field, either by the company's own sale representatives or those of other companies.

If a pharmaceutical manufacturer establishes a hotline or other reporting mechanism, information regarding how to access the reporting mechanism should be made readily available to all employees and independent contractors by including that information in the code of conduct or by circulating the

[12] In some cases, employees sue their employers under the False Claims Act's *qui tam* provisions after a failure or apparent failure by the company to take action when the employee brought a questionable, fraudulent, or abusive situation to the attention of senior corporate officials. Whistleblowers must be protected against retaliation, a concept embodied in the provisions of the False Claims Act. *See* 31 U.S.C. 3730(h).

information (*e.g.*, by publishing the hotline number or e-mail address on wallet cards) or conspicuously posting the information in common work areas.[13] Employees should be permitted to report matters on an anonymous basis.

Reported matters that suggest substantial violations of compliance policies or applicable Federal health care program requirements should be documented and investigated promptly to determine their veracity and the scope and cause of any underlying problem. The compliance officer should maintain a detailed log that records such reports, including the nature of any investigation, its results, and any remedial or disciplinary action taken. Such information, redacted of individual identifiers, should be summarized and included in reports to the board of directors, the president or CEO, and compliance committee. Although the pharmaceutical manufacturer should always strive to maintain the confidentiality of an employee's identity, it should also make clear that there may be a point where the individual's identity may become known or need to be revealed in certain instances. The OIG recognizes that protecting anonymity may be infeasible for small companies. However, the OIG believes all employees, when seeking answers to questions or reporting potential instances of fraud and abuse, should know to whom to turn for a meaningful response and should be able to do so without fear of retribution.

F. Auditing and Monitoring

An effective compliance program should incorporate thorough monitoring of its implementation and an ongoing evaluation process. The compliance officer should document this ongoing monitoring, including reports of suspected noncompliance, and provide these assessments to company's senior management and the compliance committee. The extent and frequency of the compliance audits may vary depending on variables such as the pharmaceutical manufacturer's available resources, prior history of noncompliance, and the risk factors particular to the company. The nature of the reviews may also vary and could include a prospective systemic review of the manufacturer's processes, protocols, and practices or a retrospective review of actual practices in a particular area.

Although many assessment techniques are available, it is often effective to have internal or external evaluators who have relevant expertise perform regular compliance reviews. The reviews should focus on those divisions or departments of the pharmaceutical manufacturer that have substantive involvement with or impact on Federal health care programs (such as the government contracts and sales and marketing divisions) and on the risk areas identified in this guidance. The reviews should also evaluate the company's policies and procedures regarding other areas of concern identified by the OIG (*e.g.*, through Special Fraud Alerts) and Federal and state law enforcement agencies. Specifically, the reviews should evaluate whether: (1) The pharmaceutical manufacturer has policies covering the identified risk areas; (2) whether the policies were implemented and communicated; and (3) whether the policies were followed.

G. Enforcing Standards Through Well-Publicized Disciplinary Guidelines

An effective compliance program should include clear and specific disciplinary policies that set out the consequences of violating the law or the pharmaceutical manufacturer's code of conduct or policies and procedures. A pharmaceutical manufacturer should consistently undertake appropriate disciplinary action across the company in order for the disciplinary policy to have the required deterrent effect. Intentional and material noncompliance should subject transgressors to significant sanctions. Such sanctions could range from oral warnings to suspension, termination or other sanctions, as appropriate. Disciplinary action also may be appropriate where a responsible employee's failure to detect a violation is attributable to his or her negligence or reckless conduct. Each situation must be considered on a case-by-case basis, taking into account all relevant factors, to determine the appropriate response.

H. Responding to Detected Problems and Developing Corrective Action Initiatives

Violation of a pharmaceutical manufacturer's compliance program, failure to comply with applicable Federal or state law, and other types of misconduct threaten the company's status as a reliable, honest, and trustworthy participant in the health care industry. Detected but uncorrected misconduct can endanger the reputation and legal status of the company. Consequently, upon receipt of reasonable indications of suspected noncompliance, it is important that the compliance officer or other management officials immediately investigate the allegations to determine whether a material violation of applicable law or the requirements of the compliance program has occurred and, if so, take decisive steps to correct the problem.[14] The exact nature and level of thoroughness of the investigation will vary according to the circumstances, but the review should be detailed enough to identify the root cause of the problem. As appropriate, the investigation may include a corrective action plan, a report and repayment to the government, and/or a referral to criminal and/or civil law enforcement authorities.

Reporting

Where the compliance officer, compliance committee, or a member of senior management discovers credible evidence of misconduct from any source and, after a reasonable inquiry, believes that the misconduct may violate criminal, civil, or administrative law, the company should promptly report the existence of misconduct to the appropriate Federal and state authorities[15] within a reasonable period, but not more than 60 days,[16] after determining that there is credible evidence of a violation.[17] Prompt

[13] Pharmaceutical manufacturers should also post in a prominent area the HHS–OIG Hotline telephone number, 1–800–447–8477 (1–800–HHS–TIPS).

[14] Instances of noncompliance must be determined on a case-by-case basis. The existence or amount of a *monetary* loss to a Federal health care program is not solely determinative of whether the conduct should be investigated and reported to governmental authorities. In fact, there may be instances where there is no readily identifiable monetary loss, but corrective actions are still necessary to protect the integrity of the health care program.

[15] Appropriate Federal and state authorities include the OIG, the Criminal and Civil Divisions of the Department of Justice, the U.S. Attorney in relevant districts, the Food and Drug Administration, the Federal Trade Commission, the Drug Enforcement Administration and the Federal Bureau of Investigation, and the other investigative arms for the agencies administering the affected Federal or state health care programs, such as the state Medicaid Fraud Control Unit, the Defense Criminal Investigative Service, the Department of Veterans Affairs, HRSA, and the Office of Personnel Management (which administers the Federal Employee Health Benefits Program).

[16] In contrast, to qualify for the ''not less than double damages'' provision of the False Claims Act, the provider must provide the report to the government within 30 days after the date when the provider first obtained the information. 31 U.S.C. 3729(a).

[17] Some violations may be so serious that they warrant immediate notification to governmental authorities prior to, or simultaneous with, commencing an internal investigation. By way of example, the OIG believes a provider should report misconduct that: (1) Is a clear violation of administrative, civil, or criminal laws; (2) has a significant adverse effect on the quality of care provided to Federal health care program beneficiaries; or (3) indicates evidence of a systemic

voluntary reporting will demonstrate the pharmaceutical manufacturer's good faith and willingness to work with governmental authorities to correct and remedy the problem. In addition, reporting such conduct will be considered a mitigating factor by the OIG in determining administrative sanctions (*e.g.*, penalties, assessments, and exclusion), if the reporting company becomes the subject of an OIG investigation.[18]

When reporting to the government, a pharmaceutical manufacturer should provide all information relevant to the alleged violation of applicable Federal or state law(s) and the potential financial or other impact of the alleged violation. The compliance officer, under advice of counsel and with guidance from the governmental authorities, could be requested to continue to investigate the reported violation. Once the investigation is completed, and especially if the investigation ultimately reveals that criminal, civil or administrative violations have occurred, the compliance officer should notify the appropriate governmental authority of the outcome of the investigation, including a description of the impact of the alleged violation on the operation of the applicable Federal health care programs or their beneficiaries.

III. Conclusion

In today's environment of increased scrutiny of corporate conduct and increasingly large expenditures for prescription drugs, it is imperative for pharmaceutical manufacturers to establish and maintain effective compliance programs. These programs should foster a culture of compliance that begins at the executive level and permeates throughout the organization. This compliance guidance is designed to provide assistance to all pharmaceutical manufacturers as they either implement compliance programs or re-assess existing programs. The essential elements outlined in this compliance guidance can be adapted to the unique environment of each manufacturer. It is the hope and expectation of the OIG that the resulting compliance programs will benefit not only Federal health care programs and their beneficiaries, but also pharmaceutical manufacturers themselves.

Dated: September 26, 2002.

Janet Rehnquist,

Inspector General.

[FR Doc. 02–25119 Filed 10–2–02; 8:45 am]

BILLING CODE 4152–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Data Collection; Comment Request; California Health Interview Survey (CHIS) Cancer Control Module (CCM)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the National Institutes of Health (NIH), National Cancer Institute (NCI) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection

Title: California Health Interview Survey (CHIS) Cancer Control Module (CCM). *Type of Information Collection Request:* New. *Need and Use of Information Collection:* NCI sponsored a Cancer Control Modules to the National Health Interview Survey (NHIS) and to the California Health Interview Survey (CHIS) administered in 2000. While the NHIS data have proven extremely useful in monitoring risk factors and screening related to cancer control, the national sample does not provide adequate numbers of racial-ethnic minorities to analyze particular domains within them, such as age by gender and income or education. The CHIS telephone survey, administered for the first time in 2000–2001, is designed to provide population-based, standardized health-related data for California counties. Initiated by the California Department of Health Services (CDHS) Center for Health Statistics, the Public Health Institute (PHI), and the UCLA Center for Health Policy Research (UCLA), the survey is largely funded by California sources. The 2000 CHIS CCM is similar in content to the 2000 NHIS CCM, and met its target of one sample adult in 55,000 households. California, the most populous state in the nation, is also the most racially and ethnically diverse. Specific populations of interest include Black or African American, Hispanic or Latino, Asian, Native Hawaiian or Other Pacific Islander, and American Indian or Alaska Native. The CHIS data was released in July 2002. NCI is using the CHIS and NHIS data from 2000/2001 to better estimate health-related behaviors and cancer risk factors for smaller racial/ethnic minority populations. Preliminary analyses suggest that the CHIS will provide improved estimates for cancer risk factors and screening among racial/ethnic minority populations. NCI will sponsor questions on cancer screening in the 2003 NHIS and to provide better estimates for smaller racial-ethnic minority populations, anticipates also sponsoring cancer-screening questions on the 2003 CHIS. NCI will also take advantage of the Housing and Environment Module to be included in the 2003 CHIS to ask respondents questions about environmental tobacco smoke and physical activity. *Frequency of response:* One-time. *Affected public:* Individuals. *Types of Respondents:* U.S. adults.

The annual reporting burden is as follows:

TABLE A.12–1.—ANNUALIZED BURDEN ESTIMATES FOR CHIS DATA COLLECTION

Data collection	Estimated number of respondents	Frequency of response	Average time per response	Annual hour burden
Adult Core	55,000	1	.42	23,100
CCM	55,000	1	.08	4,400
Totals	55,000	.....	.....	27,500

failure to comply with applicable laws or an existing corporate integrity agreement, regardless of the financial impact on Federal health care programs.

[18] The OIG has published criteria setting forth those factors that the OIG takes into consideration in determining whether it is appropriate to exclude an individual or entity from program participation pursuant to 42 U.S.C. 1320a–7(b)(7) for violations of various fraud and abuse laws. *See* 62 FR 67392 (December 24, 1997).

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Nancy Breen, PhD, Project Officer, National Cancer Institute, EPN 4005, 6130 Executive Boulevard MSC 7344, Bethesda, Maryland 20892–7344, or call non-toll-free number (301) 496–8500, or FAX your request to (301) 435–3710, or E-mail your request, including your address, to *breenn@mail.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: September 25, 2002.

Reesa L. Nichols,

NCI Project Clearance Liaison.

[FR Doc. 02–25089 Filed 10–2–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stoke; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of person privacy.

Name of Committee: Training Grant and Career Development Review Committee.

Date: October 9–11, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Monarch Hotel, 2400 M Street, NW., Washington, DC 20037.

Contact Person: Raul A. Saavedra, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group Neurological Sciences and Disorders C.

Date: October 21–22, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, 515 15th Street, NW., Washington, DC 2004.

Contact Person: Andrea Sawczuk, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, Bethesda, MD 20892–9529, 301–496–0660.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders A.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Hotel, 15th and M Streets, NW., Washington, DC 20005.

Contact Person: Richard D. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders K.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Katherine M. Woodbury, Ph.D., Scientific Reivew Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd, Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: W. Ernest Lyons, PhD, Scientific Reivew Administrator, Scientific Reivew Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: September 26, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25090 Filed 10–2–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; ''Rodent and Monkey Testing for NIDA Medication Discovery Programs''.

Date: October 17, 2002.

Time: 9:30 a.m. to 12 p.m.

Agenda: To review and evaluate contract proposals.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Rockville, MD 20852. (Telephone Conference Call).

Contact Person: Lyle Furr, Contract Review Specialist, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547. (301) 435–1439.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: September 26, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25091 Filed 10–2–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Hematology Subcommittee 1.

Date: October 10–11, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Chevy Chase Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Robert Su, PhD, Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892. (301) 435–1195.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS–3(10): Small Business: Pathophysiology.

Date: October 15–16, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 2007.

Contact Person: Gopal C. Sharma, DVM, MS, PhD, Diplomate American Board of Toxicology, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2184, MSC 7818, Bethesda, MD 20892. (301) 435–1783. *sharmag@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, IFCN–6 (01) Ear.

Date: October 15–16, 2002.

Time: 8 a.m. to 5 p.m..

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Joseph Kimm, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178 MSC 7844, Bethesda, MD 20892. (301) 435–1249.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN3 (01) Biological Rhythms and Sleep Mechanisms.

Date: October 15, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892. 301–435–1245. *richard.marcus@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Biophysical Chemistry Study Section.

Date: October 17–18, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892. (301) 435–1153.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Biophysical Chemistry: Request for Supplement.

Date: October 18, 2002.

Time: 5:15 p.m. to 5:45 p.m.

Agenda: To review and evaluate grant applications.

Place: Four Points Sheraton, 8400 Wisconsin Avenue. Bethesda, MD 20814.

Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4192, MSC 7806, Bethesda, MD 20892. (301) 435–1153.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Experimental Cardiovascular Sciences Study Section.

Date: October 21–22, 2002.

Time: 8 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892. (301) 435–1210.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Health Services Research.

Date: October 21–22, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Hotel, 15th and M Streets, NW., Washington, DC 20005.

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892. 301–435–0695.

Name of Committee: Surgery, Radiology and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: October 21–22, 2002.

Time: 1 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Gerald L. Becker, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892. (301) 435–1170.

Name of Committee: Musculoskeletal and Dental Sciences Integrated Review Group, Oral Biology and Medicine Subcommittee 1.

Date: October 22–23, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 new Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: J. Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892. 301/435–1781. *th88q@nih.go.*

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Nursing Research Study Section.

Date: October 22–23, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tyson Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Gertrude McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892. (301) 435–1784. *mcfarlag@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN2 (01) Neuroendocrinology, Neuroimmunology, and Behavior.

Date: October 22–23, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892. 301–435–1245. *richard.marcus@nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Experimental Therapeutics Subcommittee 2.

Date: October 23–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7804, Bethesda, MD 20892. (301) 435–1719.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Microbial Physiology and Genetics Subcommittee 1.

Date: October 23–24, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, NW., Washington, DC 20037.

Contact Person: Allen C. Stoolmiller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7808, Bethesda, MD 20892. 301–435–1149. *a.stoolmiller@islandtelecom.com.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Nursing.

Date: October 23, 2002.

Time: 4 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McClean, VA 22102.

Contact Person: Mary Ann Guadagno, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892. (301) 451–8011.

Name of Committee: Biochemical Sciences Integrated Review Group, Physiological Chemistry Study Section.

Date: October 24–25, 2002.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Governor's House, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: Richard Panniers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7842, Bethesda, MD 20892. (301) 435–1741.

Name of Committee: Cardiovascular Sciences Integrated Review Group, Pharmacology Study Section.

Date: October 24–25, 2002.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, Kaleidoscope Room, 2101 Wisconsin Ave., NW., Washington, DC 20007.

Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4172, MSC 7804, Bethesda, MD 20892. (301) 435–4522. *gibsonj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 VISC(01) Q; Retinal Biology

Date: October 24–25, 2002.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Avenue, NW., Washington, DC 20037.

Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892. (301) 435–0910. *chaitinm@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Integrative, Functional and Cognitive Neuroscience 8.

Date: October 24–25, 2002.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7844, Bethesda, MD 20892. (301) 435–1242.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 SSS 9 11B: Small Business: Biomedical Informatics.

Date: October 24–25, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892–7854. (301) 435–1177. *bunnagb@csr.nih.gov.*

Name of Committee: Nutritional and metabolic Sciences Integrated Review Group, Metabolism Study Section.

Date: October 24–25, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892. (301) 435–4514. *jerkinsa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epidemiology of Clinical Disorders and Aging.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815

Contact Person: Mary Ann Guadagno, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1104, MSC 7770, Bethesda, MD 20892. (301) 451–8011.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 3, Membrane Studies.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Club Quarters, 839 17th St NW., Washington, DC 20006.

Contact Person: Michael A Lang, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5210, MSC 7850, Bethesda, MD 20892. (301) 435–1265. *langm@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Medical Biochemistry Study Section.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street, NW., Washington, DC 20036–3305.

Contact Person: Alexander S. Liacouras, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5154, MSC 7842, Bethesda, MD 20892. (301) 435–1740.

Name of Committee: Cell Development and Function Integrated Review Group, Cell Development and Function 5.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: Sherry L. Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892. (301) 435–1021. *duperes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 BECM (1) Bioanalytical Engineering and Chemistry Panel.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th St., NW., Washington, DC 20007.

Contact Person: Noni Byrnes, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4196, MSC 7806, Bethesda, MD 20892. (301) 435–1217. *byrnesn@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular, Cellular and Developmental Neurosciences 6.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Jurys Washington Hotel, 1500 New Hampshire Avenue, NW., Washington, DC 20036.

Contact Person: Michael Nunn, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7850, Bethesda, MD 20892. (301) 435–1257. *nunnm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Psychosocial Risk and Disease Prevention.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: The Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Deborah L. Young-Hyman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1100, MSC 7848, Bethesda, MD 20892. (301) 451–8008.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Nursing Research: Child and Family.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, Tysons Corner, 1960 Chain Bridge Road, McLean, VA 22102.

Contact Person: Gertrude K. McFarland, DNSC, FAAN, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3156, MSC 7770, Bethesda, MD 20892. (303) 435–1784. *mcfarlag@csr.nih.gov.*

Name of Committee: Biochemical Sciences Integrated Review Group, Pathobiochemistry Study Section.

Date: October 24, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

Contact Person: Zakir Bengali, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5150, MSC 7842, Bethesda, MD 20892. (301) 435–1742.

Name of Committee: Biophysical and Chemical Sciences Integrated Review Group, Bio-Organic and Natural Products Chemistry Study Section.

Date: October 24–25, 2002.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Mike Radtke, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7806, Bethesda, MD 20892. (301) 435–1728. *radtkem@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Initial Review Group, Biobehavioral and Behavioral Processes 3, Language and Communication.

Date: October 24–25, 2002.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC 20005–2750.

Contact Person: Weijia Ni, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7848, (for overnight mail use room # and 20817 zip), Bethesda, MD 20892. (301) 435–1507. *niw@csr.hih.gov.*

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Methods 2.

Date: October 24–25, 2002.

Time: 9 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Yvette Davis, VMD, MPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892. (301) 435–0906.

Name of Committee: Social Sciences, Nursing, Epidemiology and Methods Integrated Review Group, Social Sciences, Nursing, Epidemiology and Methods 3, Social Sciences and Population Studies.

Date: October 24–25, 2002.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Weller, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3160, MSC 7770, Bethesda, MD 20892. (301) 435–0694.

Name of Committee: Biobehavioral and Behavioral Process Initial Review Group, Biobehavioral and Behavioral Processes 1, Biobehavioral Regulation, Learning and Ethology.

Date: October 24–25, 2002.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington Hotel, 1400 M Street, NW., Washington, DC 20005–2750.

Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC, Bethesda, MD 20892. (301) 435–0692.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 HEM–2 (10)C: Myelocyte Differentiation.

Date: October 24, 2002.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Jerrold Fried, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC, 7802, Bethesda, MD 20892. (301) 435–1777.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict—Endocrinology & Reproductive Sciences.

Date: October 25, 2002.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate applications.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Syed Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892. (301) 435–1043. *amirs@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Pane, Immunology.

Date: October 25, 2002.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Select, 8120 Wisconsin Avenue, Bethesda, MD 20841.

Contact Person: Betty Hayden, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892. 301–435–1223. *haydenb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93,306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: September 26, 2002.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 02–25092 Filed 10–2–02; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A notice listing all currently certified laboratories is published in the **Federal Register** during the first week of each month. If any laboratory's certification is suspended or revoked, the laboratory will be omitted from subsequent lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be listed at the end, and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at the following websites: *http://workplace.samhsa.gov* and *http://www.drugfreeworkplace.gov.*

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014, Fax: (301) 443–3031.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840/800–877–7016, (Formerly: Bayshore Clinical Laboratory).

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 716–429–2264.

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770/888–290–1150.

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400.

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000, (Formerly: Jewish Hospital of Cincinnati, Inc.).

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900.

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866/800–433–2750.

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783, (Formerly: Forensic Toxicology Laboratory Baptist Medical Center).

Clinical Laboratory Partners, LLC, 129 East Cedar St., Newington, CT 06111, 860–696–8115, (Formerly: Hartford Hospital Toxicology Laboratory).

Clinical Reference Lab, 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917.

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093, (Formerly: Cox Medical Centers).

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416.

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31602, 912–244–4468.

DrugProof, Divison of Dynacare, 543 South Hull St., Montgomery, AL 36103, 888–777–9497/334–241–0522, (Formerly: Alabama Reference Laboratories, Inc.).

DrugProof, Division of Dynacare/Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180, (Formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.).

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310.

Dynacare Kasper Medical Laboratories *, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 780–451–3702/800–661–9876.

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 662–236–2609.

Express Analytical Labs, 3405 7th Avenue, Suite 106, Marion, IA 52302, 319–377–0500.

Gamma-Dynacare Medical Laboratories *, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ONT, Canada N6A 1P4, 519–679–1630.

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267.

Kroll Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823, (Formerly: Laboratory Specialists, Inc.).

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–728–4064, (Formerly: Center for Laboratory Services, a Division of LabOne, Inc.).

Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387.

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986, (Formerly: Roche Biomedical Laboratories, Inc.).

Laboratory Corporation of America Holdings, 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984, (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group).

Laboratory Corporation of America Holdings, 10788 Roselle Street, San Diego, CA 92121, 800–882–7272, (Formerly: Poisonlab, Inc.).

Laboratory Corporation of America Holdings, 1120 Stateline Road West, Southaven, MS 38671, 866–827–8042/800–233–6339, (Formerly: LabCorp Occupational Testing Services, Inc., MedExpress/National Laboratory Center).

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734/800–331–3734.

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555, (Formerly: NOVAMANN (Ontario) Inc.).

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43699, 419–383–5213.

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244.

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295.

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088.

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515.

Northwest Drug Testing, a division of NWT Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 801–293–2300/800–322–3361, (Formerly: NWT Drug Testing, NorthWest Toxicology, Inc.).

One Source Toxicology Laboratory, Inc., 1705 Center Street, Deer Park, TX 77536, 713–920–2559, (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory).

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–687–2134.

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110/800–328–6942, (Formerly: Centinela Hospital Airport Toxicology Laboratory).

Pathology Associates Medical Laboratories, 110 West Cliff Drive, Spokane, WA 99204, 509–755–8991/800–541–7891x8991.

PharmChem Laboratories, Inc., 4600 N. Beach, Haltom City, TX 76137, 817–605–5300, (Formerly: PharmChem Laboratories, Inc., Texas Division; Harris Medical Laboratory).

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627.

Quest Diagnostics Incorporated, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 800–842–6152, (Moved from the Dallas location on 03/31/01; Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/877–642–2216, (Formerly: SmithKline Beecham Clinical Laboratories, SmithKline Bio-Science Laboratories).

Quest Diagnostics Incorporated, 506 E. State Pkwy., Schaumburg, IL 60173, 800–669–6995/847–885–2010, (Formerly: SmithKline Beecham Clinical Laboratories, International Toxicology Laboratories).

Quest Diagnostics Incorporated, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520, (Formerly: SmithKline Beecham Clinical Laboratories).

Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130.

S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227.

South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176.

Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507/800–279–0027.

Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520, (Formerly: St. Lawrence Hospital & Healthcare System).

St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052.

Sure-test Laboratories, Inc., 2900 Broad Avenue, Memphis, Tennessee 38112, 901–474–6028.

Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273.

Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260.

US Army Forensic Toxicology Drug Testing Laboratory, Fort Meade, Building 2490, Wilson Street, Fort George G. Meade, MD 20755–5235, 301–677–7085.

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (59 FR, June 9, 1994, Pages 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 02–25106 Filed 10–2–02; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4786–N–02]

Notice To Further Extend Availability of Revised Public Housing Occupancy Guidebook and Period for Comments

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of extension of availability and request for comments.

SUMMARY: This notice advises the public that HUD is extending the comment period for the revised Public Housing Occupancy Guidebook (Occupancy Guidebook) and making available a copy of the draft, revised Occupancy Guidebook on the HUD website and inviting interested parties to comment or provide additional comments on HUD's revised Occupancy Guidebook.

ADDRESSES: A copy of HUD's revised Occupancy Guidebook can be obtained via the World Wide Web at *http://www.hud.gov/offices/pih* or by calling the Public and Indian Housing Resource Center at 1–800–955–2232. Interested persons may also submit comments regarding this Notice to the attention of Public Housing Occupancy Guidebook Comments, Department of Housing and Urban Development, Office of Public and Indian Housing, Room 4224, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number and title. Comments may also be submitted by email to: *occupancy_guidebook_comments@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Patricia Arnaudo, Director, Customer Services and Amenities Division, 451 Seventh Street, SW, Washington, DC 20410–2000; telephone number (202) 708–0744 ext. 4250. A telecommunications device (TDD) for hearing and speech-impaired persons is available at (202) 708–0455. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: On August 30, 2002, HUD published a notice (67 FR 55861) that announced the availability of the revised Public Housing Occupancy Guidebook (Occupancy Guidebook) on HUD's website for review and comment. In view of the widespread use of the Occupancy Guidebook and its importance to public housing residents and PHA staff, HUD has decided to further extend the comment period until October 15, 2002 so that all stakeholders will have a greater opportunity to participate and express their viewpoints.

Copies of HUD's draft, revised Occupancy Guidebook will be available until October 15, 2002 at the HUD web site *http://www.hud.gov/offices/pih.* Members of the public without access to the World Wide Web may obtain a copy of the revised Occupancy Guidebook by contacting the Public and Indian Housing Resource Center at 1–800–955–2232.

Public input is solicited on the overall scope and direction of the revised Occupancy Guidebook. Interested members of the public may submit comments, or submit additional comments, either electronically or by overnight mail to the addresses listed in the **ADDRESSES** section above. To be most helpful, comments must be identified by specific page and

paragraph references and must be received by October 15, 2002.

Dated: September 27, 2002.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 02–25095 Filed 10–2–02; 8:45 am]

BILLING CODE 4210–33–P

DEPARTMENT OF THE INTERIOR

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Receipt of Applications.

SUMMARY: The following applicants have applied for a scientific research permit to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

DATES: Written comments on these permit applications must be received within 30 days of the date of publication.

ADDRESSES: Written data or comments should be submitted to the Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103; (505) 248–6649; Fax (505) 248–6788. Documents will be available for public inspection by written request, by appointment only, during normal business hours (8 to 4:30) at the U.S. Fish and Wildlife Service, 500 Gold Ave. SW., Room 4102, Albuquerque, New Mexico. Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Chief, Endangered Species Division, Ecological Services, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request to the address above for a copy of such documents within 30 days of the date of publication of this notice.

SUPPLEMENTARY INFORMATION:

Permit No. TE–814841

Applicant: Desert Botanical Garden, Phoenix, Arizona.

Applicant requests an amendment to an existing permit to allow collection of seeds and vouchers of Canelo Hills ladies'-tresses (*Spiranthes delitescens*) from Santa Cruz County, Arizona.

Permit No. TE–061127

Applicant: Tierra Archaeological and Environmental Consultants, Tucson, Arizona.

Applicant requests a permit for research and recovery purposes to conduct presence/absence surveys for the following species: lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), southwestern willow flycatcher (*Empidonax traillii extimus*), and cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*). All surveys are to occur throughout the known range of each species, including locations within the states of Arizona, California, Colorado, New Mexico, Texas, and Utah. Applicant additionally requests authorization to conduct surveys for and transplant individuals of Pima pineapple cactus (*Coryphantha scheeri var. robustispina*) within Pima County, Arizona.

Permit No. TE–008187

Applicant: Stephanie Fudge, Hartford, Arkansas.

Applicant requests an amendment to an existing permit to allow presence/absence surveys for American burying beetle (*Nicrophorus americanus*) within Arkansas.

Permit No. TE–048579

Applicant: Kathlene Meadows, Tucson, Arizona.

Applicant requests an amendment to an existing permit to allow presence/absence surveys for southwestern willow flycatcher (*Empidonax traillii extimus*) within Arizona.

Permit No. TE–799158

Applicant: Oklahoma Museum of Natural History, Norman, Oklahoma.

Applicant requests an amendment to an existing permit to allow collection of the following species from within Texas: Big Bend gambusia (*Gambusia gaigei*), Clear Creek gambusia (*Gambusia heterochir*), and Pecos gambusia (*Gambusia nobilis*).

Permit No. TE–061728

Applicant: Christopher McDonald, Tucson, Arizona.

Applicant requests a permit for research and recovery purposes to allow collection and habitat manipulation of Pima pineapple cactus (*Coryphantha scheeri var. robustispina*) within Pima and Santa Cruz Counties, Arizona.

Permit No. TE–061084

Applicant: Kenneth Kingsley, Tucson, Arizona.

Applicant requests a permit for research and recovery purposes to conduct presence/absence surveys and salvage the following species where they are known to occur throughout Arizona, New Mexico, and Texas: lesser long-nosed bat (*Leptonycteris curasoae yerbabuenae*), Mexican long-nosed bat (*Leptonycteris nivalis*), black-footed ferret (*Mustela nigripes*), Hualapai Mexican vole (*Microtus mexicanus hualpaiensis*), southwestern willow flycatcher (*Empidonax traillii extimus*), black-capped vireo (*Vireo atricapillus*), golden-cheeked warbler (*Dendroica chrysoparia*), cactus ferruginous pygmy owl (*Glaucidium brasilianum cactorum*), Yuma clapper rail (*Rallus longirostris yumanensis*), Sonoran tiger salamander (*Ambystoma tigrinum stebbinsi*), desert pupfish (*Cyprinodon macularius*), Gila topminnow (*Poeciliopsis occidentalis*), humpback chub (*Gila cypha*), razorback sucker (*Xyrauchen texanus*), Virgin River chub (*Gila robusta semidnuda*), and woundfin (*Plagopterus argentissimus*).

Permit No. TE–053843

Applicant: Donna Achuff, Orange Grove, Texas.

Applicant requests an amendment to an existing permit to allow authorization to house and care for captive bred jaguarundi (*Herpailurus yagouaroundi*) within Jim Wells County, Texas.

Permit No. TE–022329

Applicant: Mike Warton and Associates, Cedar Park, Texas.

Applicant requests an amendment to an existing permit to allow presence/absence surveys and collection of the following species within Texas: *Rhadine exilis* (ground beetle, no common name), *Rhadine infernalis* (ground beetle, no common name), *Batrisodes venyivi* (Helotes mold beetle), *Texella cokendolpheri* (Cokendolpher cave harvestman), *Cicurina baronia* (Robber Baron cave meshweaver), *Cicurina madla (Madla's* cave meshweaver), *Cicurina venii* (Bracken Bat Cave meshweaver), *Cicurina vespera* (Government Canyon Bat Cave meshweaver), and *Neoleptoneta microps* (Government Canyon Bat Cave spider).

Permit No. TE–836329

Applicant: Blanton & Associates, Austin, Texas.

Applicant requests an amendment to an existing permit to allow presence/

absence surveys for brown pelican (*Pelecanus occidentalis*) within Texas.

David C. Frederick,

Assistant Regional Director, Ecological Services, Region 2, Albuquerque, New Mexico.

[FR Doc. 02–25101 Filed 10–2–02; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Withdrawal of the Little Darby National Wildlife Refuge Proposal and Availability of the Little Darby Creek Conservation Through Local Initiatives Final Report

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: This notice advises the public that the U.S. Fish & Wildlife Service (Service) is withdrawing its proposal to establish the Little Darby National Wildlife Refuge in Madison and Union counties in Ohio. A concluding Final Report provides tools that could be useful in pursuing a local conservation initiative.

DATES: This action will become effective with this notice. The Service notified the public of the decision to withdraw the proposal in March; formal notice of the decision is being made concurrent with the availability of the Final Report. Copies of the Final Report are available on the Service's Web site: *http//midwest.fws.gov/planning/Idarbytop.htm,* or by writing to the address listed below.

FOR FURTHER INFORMATION CONTACT: Tom Larson, Chief of Ascertainment and Planning, U.S. Fish & Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Fort Snelling, MN 55111. Telephone 612/713–5430.

SUPPLEMENTARY INFORMATION: There were both supporters and opponents to the proposal to create a new national wildlife refuge in south central Ohio, but the community consistently expressed support for the conservation of agricultural and natural resource areas. In withdrawing the proposal to establish a refuge, the Service is supporting interest in locally-driven conservation efforts. The Final Report includes an overview of the refuge proposal, a brief history of the area, description of the natural resource values of the Little Darby Creek Watershed, information on local perceptions and expectations related to conservation, and information on resources available for local conservation initiatives. The Report reiterates the Service's belief in preserving the watershed's resource values.

Dated: August 14, 2002.

William F. Hartwig,

Regional Director.

[FR Doc. 02–25102 Filed 10–2–02; 8:45 am]

BILLING CODE 4310–55–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–420 and 421 (Final)]

Carbon and Certain Alloy Steel Wire Rod From Trinidad and Tobago and Turkey

AGENCY: International Trade Commission.

ACTION: Termination of investigations.

SUMMARY: On August 30, 2002, the Department of Commerce published notice in the **Federal Register** of final negative countervailing duty determinations in connection with the subject investigations (67 FR 55810 and 55815). Accordingly, pursuant to § 207.40(a) of the Commission's rules of practice and procedure (19 CFR 207.40(a)), the countervailing duty investigations concerning carbon and certain alloy steel wire rod from Trinidad and Tobago and Turkey (investigations Nos. 701–TA–420 and 421 (Final)) are terminated.

EFFECTIVE DATE: August 30, 2002.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

Authority: These investigations are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 201.10 of the Commission's rules (19 CFR 201.10).

By order of the Commission.

Issued: September 27, 2002.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 02–25113 Filed 10–2–02; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environment Response, Compensation, and Liability Act

Notice is hereby given that on September 16, 2002, a proposed consent decree in *United States* v. *Buena Vista Mines, Inc., et al.,* Civil Action No. 98–7226 SVW (RNBx), was lodged with the United States District Court for the Central District of California.

In this action, brought under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9606, 9607, the United States sought reimbursement of response costs incurred by the U.S. Environmental Protection Agency (''EPA'') at the Buena Vista/Klau Mine Site near Paso Robles California, as well as civil penalties and treble damages arising from the failure of defendants Buena Vista Mines, Inc. (''BVMI''), Harold J. Biaggini, and Edward C. Biaggini, III to comply with an EPA administrative clean-up order. The consent decree provides for payments of $500,000 from the defendants and $100,000 from third-party defendant County of San Luis Obispo and, in addition, provides that the United States will receive the major portion of all proceeds of any future BVMI land sales. In exchange for the settlement payments, the settling parties will receive a site-wide covenant-not-to-sue, subject to certain reservations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Buena Vista Mines, Inc., et al.,* D.J. Ref. No. 90–5–1–1–4467/1.

The consent decree may be examined at the offices of U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. A copy of the consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation

number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $10.75 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ellen M. Mahan,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–25099 Filed 10–2–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that on September 19, 2002, a motion to lodge a proposed consent decree in *United States* v. *General Iron Industries, Inc. et al.*, Civil Action No. 01 C 4889, was filed with the United States District Court for the Northern District of Illinois.

In this action the United States sought to recover response costs incurred by the United States in connection with the Estech Chemical Company Site in Calument City, Illinois (the ''Site''). The compliant alleges that the United States undertook response actions as a result of releases or threatened releases of hazardous substances at the Site, and that General Iron Industries, Inc. (''General Iron'') is jointly and severally liable for the costs of such response actions as a party that arranged for treatment or disposal of hazardous substances at the Site. Under the proposed consent decree General Iron will pay $1.8 million to the Hazardous Substances Superfund as partial reimbursement of response costs that the United States incurred in connection with the Site through March 15, 2002. The proposed consent decree will not resolve potential liability of General Iron with respect to any costs incurred subsequent to march 15, 2002, including costs of any final response action ultimately selected by for the Site by the United States Environmental Protection Agency (''U.S. EPA'').

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *General Iron Industries, Inc., et al.*, D.J. Ref. 90–11–2–06487/1.

The proposed consent decree may be examined at the Office of the United States Attorney, 219 South Dearborn Street, Chicago, Illinois 60604, and at U.S. EPA Region 5, 77 west Jackson Boulevard, Chicago, Illinois, 60604. A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy, please enclose a check in the amount of $4.50 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–25100 Filed 10–2–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Water Act

Under 28 CFR 50.7 notice is hereby given that on September 16, 2002, a proposed Consent Decree in *United States* v. *Wolcottville Sand and Gravel Corporation, d/b/a London Aggregates,* No. 98–CV–74192 (E.D. Mich.), and *PIRGIM Public Interest Lobby* v. *Wolcottville Sand and Gravel Corporation, d/b/a London Aggregates*, No. 98–73730 (E.D. Mich) was lodged with the United States District Court for the Eastern District of Michigan.

The United States' complaint sought injunctive relief and civil penalties for Wolcottville's violations of the conditions and limitations of its National Pollutant Discharge Elimination System (''NPDES'') permit, issued by the State of Michigan pursuant to CWA Section 402, 33 U.S.C. 1342, at Wolcottville's limestone quarry in Milan, Monroe County, Michigan. Under the proposed consent decree, Wolcottville will modify its mining operations such that it will be able eliminate all discharges at the quarry and surrender its National Pollution Discharge Elimination System permit. Wolcottville will also pay $75,000 to resolve the United States' claim for civil penalties, perform certain supplemental environmental projects at a cost of $360,000 in partial mitigation of the United States' civil penalty claims, and undertake two restoration projects in settlement of the citizens plaintiffs' claims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Degree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v.*Wolcottville Sand and Gravel Corporation, d/b/a London Aggregates,* No. 98–CV–74192 (E.D. Mich.), D.J. Ref. 90–5–1–1–4461.

The Consent Decree may be examined at the Office of the United States Attorney, Eastern District of Michigan, 211 W. Fort Street Detroit, Michigan 48226–3211 (contact Assistant United States Attorney Mary Rigdon, 313–226–9100), and at U.S. EPA Region 5, 77 W. Jackson Blvd., Chicago, Illinois (contact Assistant Regional Counsel Richard Clarizio (312–886–0559). A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. 202–616–6584, telephone confirmation number 202–514–1547. In requesting a copy, please enclose a check in the amount of $15.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

William Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 02–25098 Filed 10–2–02; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 24, 2002.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Marlene Howze at ((202) 693–4158 or e-mail *Howze-Marlene@dol.gov.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ETA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date

of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Type of Review; Extension of a currently approved collection.

Agency: Employment and Training Administration (ETA).

Title: Tax Performance System.

OMB Number: 1205–0332.

Affected Public: State, Local or Tribal Government.

Estimated Time Per Response and Total Burden Hours:

Activity	Frequency	Number of respondents	Total annual responses	Estimated hours/response	Total annual burden (hours)
Methods Survey	Annually	52	52	11	572
Program Review	Annually	52	52	1,734	90,168
Data Entry	Annually	52	52	5	260
Totals				1,750	91,000

Total Annualized Capital/Startup Costs: $0.

Total Annual Costs (operating/maintaining systems or purchasing services): $0.

Description: Section 303(a)(1) of the Social Security Act gives the Secretary of Labor several responsibilities toward the Unemployment Insurance (UI) system. The Tax Performance System (TPS) is intended to assist State administrators in improving their Unemployment Insurance (UI) program by providing objective information on the quality of existing revenue operations. TPS will also serve to help the U.S. Department of Labor carry out its oversight, technical assistance, and policy development responsibilities. If TPS data are not collected, information relative to UI tax performance according to the requirements of Federal law will not be produced, and many deficiencies in state tax operations will go unnoticed.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–25174 Filed 10–2–02; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

September 25, 2002.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation, contact Darrin King (202) 693–4129 or e-mail: *King-Darrin@dol.gov*.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for OSHA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Overhead and Gantry Cranes Standard.

Type of Review: Extension of a currently approved collection.

OMB Number: 1218–0224.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 35,000.

Requirement	Frequency	Annual responses	Average response time (hours)	Annual burden hours
Marking the Rated Load—29 CFR 1910.179(b)(3) and (b)(5)	On occasion	35	2.00	70
Certification Records of Hook and Hoist Chain Inspections—29 CFR 1910.179(j)(2)(iii) and (j)(2)(iv).	Monthly	360,000	0.50	180,000
Reports from Rated Load Test—29 CFR 1910.179(k)(2)	On occasion	70	1.00	70
Certification Records of Rope Inspections—29 CFR 1910.179(m).	Monthly	360,000	0.50	180,000

Requirement	Frequency	Annual responses	Average response time (hours)	Annual burden hours
Total		720,105		360,140

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: The Overhead and Gantry Granes Standard (29 CFR 1910.179) specifies several paperwork requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of these requirements is to prevent death and serious injuries among employees by ensuring that all critical components of the crane are inspected and tested on a periodic basis and that the crane is not used to lift loads beyond its rated capacity.

• *Marking the Rates Load (paragraphs (b)(3) and (b)(5)).* Paragraph (b)(5) requires that the rated load be plainly marked on the side of each crane. If the crane has more than one hoist, the rated load must be marked on each hoist or the load block. The manufacturer will mark the rated loads. If the crane is modified, paragraph (b)(3) requires the new rating to be determined and marked on the crane. Reports of the rated load test are also required. This function would most likely fall to the employer. Marking the rated-load capacity of a crane ensures that employers and employees will not exceed the limits of the crane, which can result in crane failure.

• *Certification Records for Hook and Hoist Chain Inspections (paragraph (j)(2)(iii) and (j)(2)(iv)).* Paragraphs (j)(2)(iii) and (j)(2)(iv) require daily and monthly inspections of hooks and hoist chains, respectively. After each monthly inspection, employers are to prepare a certification record that includes the date of the inspection, the signature of the person who performed the inspection, and the serial number, or other identifier, of the inspected hook or hoist chain. Certification records provide employers, employees, and OSHA compliance officers with assurance that the hooks and hoist chains used on cranes regulated by the Standard have been inspected as required by the Standard. These inspections help assure that the equipment is in good operating condition, thereby preventing failure of the hooks or hoist chains during material handling. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

• *Reports of Rated Load Tests (paragraph (k)(2)).* Under this provision, employers must make readily available test reports of load-rating tests conducted under paragraph (b)(3) for modified cranes, and for hooks repaired as stated in paragraph (1)(3)(iii)(a) of the Standard. These reports inform the employer, employees, and OSHA compliance officers that a rated load test was performed, providing information about the capacity of the crane and the adequacy of the repaired hook. This information is used by crane operators so that they will not exceed the rated load of the crane or hook.

• *Certification Records of Rope Inspections (paragraph (m)).* Paragraph (m)(1) requires employers to inspect thoroughly all running rope in use, and do so at least once a month. In addition, rope which has been idle for at least a month must be inspected before use, as prescribed by paragraph (m)(2), and a record prepared to certify that the inspection was done. The certification records must include the inspection date, the signature of the person conducting the inspection, and the identifier of the rope inspected. Employers must keep the certification records on file and available for inspection. The certification records provide employers, employees, and OSHA compliance officers with assurance that the ropes are in good condition.

Agency: Occupational Safety and Health Administration (OSHA).

Title: Rigging Equipment for Material Handling.

Type of Review: Extension of a currently approved collection.

OMB Number: 1218–0233.

Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Third-party disclosure.

Number of Respondents: 132,737.

Requirement	Frequency	Annual responses	Average response time (hours)	Annual burden hours
Alloy Steel Chains—29 CFR 1926.251(b)(1)	On occasion	199	0.50	100
Alloy Steel Chains—29 CFR 1926.251(b)(6)(i)	Annually	199,106	0.25	49,777
Welded End Attachment—29 CFR 1926.251(c)(15)(ii)	On occasion	99,553	0.05	4,978
Synthetic Webbing (nylon, polyester, and polypropylene)—29 CFR 1926.251(e)(1) (i), (ii) and (iii).	On occasion	106	0.50	53
Hooks—29 CFR 1926.251(f)(2)	On occasion	2,655	0.50	1,328
Total		301,619		56,236

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $0.

Description: 29 CFR 1926.251(b)(1); (b)(6)(1); (c)(15)(ii); (e)(1)(i), (ii), (iii); and (f)(2) require affixing identification tags or markings on rigging equipment, developing and maintaining inspections records, and retaining proof-testing certificates. The purpose of each of these requirements is to prevent employees from using defective or deteriorated equipment, thereby reducing their risk of death or serious injury caused by equipment failure during material handling.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 02–25175 Filed 10–2–02; 8:45 am]

BILLING CODE 4510–26–M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

1. *Type of submission:* Revision.

2. *The title of the information collection:* Proposed Rule—10 CFR parts 30, 40, and 70, ''Financial Assurance Amendments for Materials Licensees''.

3. *The form number if applicable:* Not Applicable.

4. *How often the collection is required:* For licensees certifying financial assurance, one-time. For licensees required to update a decommissioning funding plan, every 3 years.

5. *Who will be required or asked to report:* Materials licensees required to provide financial assurance.

6. *An estimate of the number of annual responses:*

10 CFR part 30: 568,
10 CFR part 40: 87,
10 CFR part 70: 51.

7. *The estimated number of annual respondents:*

10 CFR part 30: 568,
10 CFR part 40: 87,
10 CFR part 70: 51.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:*

10 CFR part 30: 5910 (10.4 hrs. per licensee),
10 CFR part 40: 638 (7.3 hrs. per licensee),
10 CFR part 70: 384 (7.5 hrs. per licensee).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies: Applicable.*

10. *Abstract:* The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations for financial assurance for certain materials licensees to bring the amount of financial assurance required more in line with current decommissioning costs. The objective of this proposed action is to maintain adequate assurance so that timely decommissioning can be carried out following shutdown of a licensed facility. Licensees using certifications will be required to submit a statement that they meet the new financial assurance levels. Those requiring a decommissioning funding plan will be required to update the plan every 3 years.

Submit, by November 4, 2002, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the submittal may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F1, Rockville, MD 20852. The proposed rule indicated in ''The title of the information collection'' is or has been published in the **Federal Register** within several days of the publication date of this **Federal Register** notice. The OMB clearance package and rule are available at the NRC World Wide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html* for 60 days after the signature date of this notice and are also available at the rule forum site, *http://ruleforum.llnl.gov.*

Comments and questions should be directed to the OMB reviewer by November 4, 2002: Bryon Allen, Office of Information and Regulatory Affairs (3150–0009, –0017, and –0020), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 27th day of September, 2002.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 02–25145 Filed 10–2–02; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–528]

Arizona Public Service Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–41, issued to Arizona Public Service Company (the licensee), for operation of the Palo Verde Nuclear Generating Station (PVNGS), Unit 1, located in Maricopa County, Arizona.

The proposed amendment would revise item a.10, definition of steam generator (SG) tube inspection, in Section 5.5.9.4, ''Acceptance Criteria,'' of Technical Specification (TS) 5.5.9, ''Steam Generator (SG) Tube Surveillance Program,'' which is in the administrative controls section of the plant TSs. The proposed amendment would revise the scope of the required inspection of the tube in the SG tubesheet region. The amendment is based on the Westinghouse report, WCAP–15947, ''NDE Inspection Strategy For the Tubesheet Region in PVNGS Unit 1,'' Revision 0. A proprietary and non-proprietary version of the report was submitted with the licensee's application.

In the application, the licensee stated that the amendment is needed before PVNGS, Unit 1 could enter Mode 4, when the TSs require that the Unit 1 SGs are operable in the restart from the October 2002 refueling outage, which begins September 28, 2002. The licensee stated that the Westinghouse WCAP–15947 report, which is the basis for the proposed amendment, could not be completed in time to avoid the exigent circumstances. The licensee stated that entry into Mode 4 is currently scheduled for October 26, 2002.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to Section 50.91(1)(6) of Title 10 of the Code of Federal Regulations (10 CFR) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed

amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration in its application, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Arizona Public Service Company (APS) proposes to modify Palo Verde Nuclear Generating Station (PVNGS) Technical Specifications for Unit 1 to define the SG tube inspection scope. The PVNGS Unit 1 specific analysis takes into account the reinforcing effect the tubesheet has on the external surface of an expanded SG tube. Tube-bundle integrity will not be adversely affected by the implementation of the revised tube inspection scope. SG tube burst or collapse cannot occur within the confines of the tubesheet; therefore, the tube burst and collapse criteria of NRC Regulatory Guide (RG) 1.121 (Bases for Plugging Degraded PWR Steam Generator Tubes) are inherently met. Any degradation below the TEA [Tube Engagement Area] length is shown by analyses and test results to be acceptable, thereby precluding an event with consequences similar to a postulated tube rupture event.

Tube burst is precluded for cracks within the tubesheet by the constraint provided by the tubesheet. Thus, structural integrity is maintained by the tubesheet constraint. However, a 360-degree circumferential crack or many axially oriented cracks could permit severing of the tube and tube pullout from the tubesheet under the axial forces on the tube from primary to secondary pressure differentials. Testing was performed to define the length of non-degraded tubing that is sufficient to compensate for the axial forces on the tube and thus prevent pullout. This proposed amendment would encompass that length of non-degraded tubing for inspection.

In conclusion, incorporation of the revised inspection scope into PVNGS Unit 1 Technical Specifications maintains existing design limits and therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Tube-bundle integrity is expected to be maintained during all plant conditions upon implementation of the proposed tube inspection scope. Use of this scope does not introduce a new mechanism that would result in a different kind of accident from those previously analyzed. Even with the limiting circumstances of a complete circumferential separation of a tube occurring below the TEA length, SG tube pullout is precluded and leakage is predicted to be maintained within the Updated Final Safety Analysis Report limits during all plant conditions.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Upon implementation of the revised inspection scope, operation with potential cracking below the Inspection Extent length in the explansion region of the SG tubing meets the margin of safety as defined by RG 1.121 and RG 1.83 (Inservice Inspection of Pressurized Water Reactor Steam Generator Tubes) and the requirements of General Design Criteria 14, 15, 31, and 32 of 10 CFR 50. Accordingly, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above evaluation, APS [Arizona Public Service] concludes that the proposed amendment presents no significant hazards consideration under the standards set forth in 10 CFR 50.92(c), and accordingly, a finding of ''no significant hazards consideration'' is justified.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received by close of business October 25, 2002, will be considered in making any final determination. The licensee is currently scheduling the entry of Unit 1 into Mode 4 for October 26, 2002, and requested in its application that NRC approve the amendment by October 24, 2002. However, by allowing for comments through October 25, 2002, the NRC will maximize the public comment period for the proposed amendment, and should provide a minimum of a 21-day notice period. The actual date that this notice is published in the **Federal Register** may allow for a slightly longer comment period.

Normally, the Commission will not issue the amendment until the expiration of the 21-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or the shutdown of the facility, or in preventing the facility from restarting from an outage, the Commission may issue the license amendment before the expiration of the notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 4, 2002, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714,[1]

[1] The most recent version of Title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714(d) and subparagraphs (d)(1) and (2), regarding petitions to intervene and contentions. Those provisions are extant and still applicable to petitions to intervene. Those provisions are as follows: ''In all other circumstances, such ruling body or officer shall, in ruling on—

(1) A petition for leave to intervene or a request for hearing, consider the following factors, among other things:

(i) The nature of the petitioner's right under the Act to be made a party to the proceeding.

(ii) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.

(iii) The possible effect of any order that may be entered in the proceeding on the petitioner's interest .

(2) The admissibility of a contention, refuse to admit a contention if:

(i) The contention and supporting material fail to satisfy the requirements of paragraph (b)(2) of this section; or

which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, and available electronically on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that petitions for leave to intervene and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and because of continuing disruptions in delivery of mail to United States Government offices, it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov.* A copy of the request for hearing and petition for leave to intervene should also be sent to Nancy C. Loftin, *Esq.*, Corporate Secretary and Counsel, Arizona Public Service Company, P.O. Box 53999, Mail Station 9068, Phoenix, Arizona 85072–3999, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 26, 2002, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 27th day of September, 2002.

Jack Donohew,

Senior Project Manager, Section 2, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 02–25146 Filed 10–2–02; 8:45 am]

BILLING CODE 7590–01–P

(ii) The contention, if proven, would be of no consequence in the proceeding because it would not entitle petitioner to relief.''

PEACE CORPS

Peace Corps Information Quality Guidelines

AGENCY: Peace Corps.

ACTION: Notice of availability of information quality guidelines.

SUMMARY: The Peace Corps gives notice of the availability of its information quality guidelines. The guidelines are required by law and are intended to ensure and maximize the quality of information disseminated to the public by the Peace Corps. The guidelines are based on those issued by the Office of Management and Budget (OMB) on January 3, 2002 (67 FR 369–378), as corrected and reprinted on February 22, 2002 (67 FR 8451–8460). The guidelines set out the Agency's policies and procedures for ensuring the quality (objectivity, utility, and integrity) of information provided to the public. The guidelines also establish administrative mechanisms permitting affected persons to seek and obtain, where appropriate, timely correction of information maintained and disseminated by the Agency that does not comply with the OMB or its own guidelines. These guidelines represent Agency policy and procedures and have no legal effect and do not create any legal rights or obligations.

DATES: The guidelines are effective upon their issuance on the Peace Corps public Web site *http://www.peacecorps.gov*

FOR FURTHER INFORMATION CONTACT: Suzanne B. Glasow, Associate general Counsel, 202–692–2150.

SUPPLEMENTARY INFORMATION: OMB issued guidelines on January 3, 2002 (67 FR 369–378), as corrected and reprinted on February 22, 2002 (67 FR 8451–8460), to implement Section 151 of the Treasury and General Government Appropriations Act for FY 2001 (Public Law 106–554, HR 5658). Section 515 and the OMB Guidelines require each federal agency subject to the Paperwork Reduction Act to issue its own guidelines that provide policies and procedures used by the Agency to ensure the objectivity, utility, and integrity of information disseminated by the Agency. The guidelines must also establish administrative mechanisms allowing affected persons to obtain correction of information disseminated to the public that does not comply with OMB and Agency guidelines. The Peace Corps published proposed guidelines in the **Federal Register** on August 21, 2002, and requested public comment on the guidelines. *See* 67 FR 54329. the Agency received no comments from the public. The Agency did receive comments and guidance from OMB that have been integrated into the final guidelines. The guidelines may be accessed on the Agency's public Web site at *http://www.peacecorps.gov* or by written request addressed to Suzanne B. Glasow, Office of the General Counsel, 1111 20th Street, NW., Washington DC 20526.

Dated: September 30, 2002.

Tyler S. Posey,

General Counsel.

[FR Doc. 02–25176 Filed 10–2–02; 8:45 am]

BILLING CODE 6015–01–M

SECURITIES AND EXCHANGE COMMISSION

Approval of Collection of Information; Extension of Expiration Date

Waiver of Auditor Consent and Reissued Accountants' Report: SEC File No. 270–503. OMB Control No. 3235–0558.

Temporary Relief for Certain Entities Audited by Arthur Andersen LLP: SEC File No. 270–502. OMB Control No. 3235–0557.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the Commission's collection of information entitled ''Waiver of Auditor Consent and Reissued Accountants'' Report'' (OMB Control No. 3235–0558). In addition, OMB has granted the Commission's request for an extension of the expiration date for its approved collection entitled ''Temporary Relief for Certain Entities Audited by Arthur Andersen LLP'' (OMB Control No. 3235–0557). The new expiration date for this collection of information is December 31, 2002.

In March 2002, the Commission adopted rules and promulgated orders to assure a continuing and orderly flow of information to investors and the U.S. capital markets and to minimize potential disruptions that might occur as a result of the indictment of Arthur Andersen LLP.[1] These rules and orders contained collection of information requirements and the Commission submitted these requirements to OMB pursuant to 44 U.S.C. 3507, 5 CFR 1320.11, and 5 CFR 1320.13. OMB approved the collection of information requirements. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. Compliance with the disclosure requirements is mandatory for those taking advantage of the relief offered by the rules and orders. There is no mandatory retention period for the information disclosed, and responses to the disclosure requirements will not be kept confidential. Comments concerning the accuracy of the burden estimates described below and suggestions for reducing these burdens should be directed to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, with reference to File No. 270–502 or 270–503.

Waiver of Auditor Consent and Reissued Accountants' Report. The Federal securities laws require companies to include in their registration statements the consent of auditors for use of their reports related to the three previous years' audits. For Andersen clients unable to obtain these consents, the rules adopted in March waived the obligation to obtain an auditor's consent for years before 2001, provided that the company discloses any limitations on remedies resulting from the lack of consents. In addition, the federal securities laws require certain issuers that change auditors to obtain from their predecessor auditor a reissued accountants' report for previously audited financial statements. Under the rules adopted in March, if the issuer is unable to obtain the accountants' report after reasonable efforts, the issuer may provide a copy of the latest previously issued accountants' report, as long as it discloses that the report is a copy of a report previously issued and that the report has not been reissued by Andersen. This collection of information is necessary to advise potential purchasers of securities and investors of certain information that they would not receive otherwise.

When we proposed this collection of information, we estimated that the disclosures associated with the waiver of consents would require one half hour, and that the disclosures associated with the waiver of the predecessor auditor's reissued report would also require one half hour. We estimated that the total number of burden hours associated with this collection of information would be 3,182.5. We solicited, but did not receive, comments on our estimates of the burden associated with this collection of information. The approval for this collection of information expires on May 31, 2005.

Temporary Relief for Certain Entities Audited by Arthur Andersen LLP (OMB Control No. 3235–0557. As described in detail in Release No. 33–8070 (Mar. 18, 2002), 67 FR 13518 (Mar. 22, 2002), this collection of information encompasses certain new disclosures required by certain clients of Andersen. In general, public companies for whom Andersen does not complete audits or reviews have been allowed to file unaudited

[1] Release Nos. 33–8070, 34–45589, IC–25463, IA–2017, 35–27502 (Mar. 18, 2002); 67 FR 13518 (Mar. 22, 2002).

financial statements, rather than audited ones, in order to meet existing periodic reporting, proxy statement, tender offer, and registration requirements, as long as they disclose that the financial statements are unaudited (or not reviewed), provide audited (or reviewed) financial statements at a later date, and explain any material differences between the unaudited and audited financial statements. In certain cases where Andersen clients were required to submit a consent or a reissued accountants' report from their auditor, but cannot obtain the consent or the reissued accountants' report, those requirements have been waived provided the filing includes appropriate disclosure. The disclosures regarding consents and reissued accountants' reports were also approved by OMB as the stand-alone collection of information described above. The collection of information is necessary to ensure that the market receives disclosure from clients of Andersen that are taking advantage of this relief. The collection of information supplies investors with information they may not otherwise have and helps prevent confusion.

When we adopted this collection of information [2] we estimated that the total number of burden hours associated with this collection of information is 12,783. We requested approval from OMB to extend the expiration date for this collection of information. OMB granted this request. The new expiration date for this collection of information is December 31, 2002.

Dated: September 30, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25162 Filed 10–2–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the Boston Stock Exchange, Inc.; (Digital Fusion, Inc., Common Stock, $.01 par value) File No. 0–24073

September 27, 2002.

Digital Fusion, Inc., a Delaware corporation (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its Common Stock, $.01 par value (''Security''), from listing and registration on the Boston Stock Exchange, Inc. (''BSE'').

The Issuer stated in its application that it has complied with all applicable laws in effect in the State of Delaware, in which it is incorporated, and with the BSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Directors (''Board'') of the Issuer unanimously approved a resolution on August 12, 2002 to withdraw the Issuer's Security from listing on the BSE. In making the decision to withdraw its Security from the BSE, the Board of the Issuer represents that the Security has been quoted on the Nasdaq Small Cap Market since 1998. The Issuer's application relates solely to the Security's withdrawal from listing on the BSE and from registration under section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before October 18, 2002, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the BSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 02–25166 Filed 10–2–02; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

[2] Release No. 33–8090 (Mar. 18, 2002); 67 FR 13518 (Mar. 22, 2002).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27570]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

September 27, 2002.

Notice is hereby given that the following filing has been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application/declaration for a complete statements of the proposed transaction summarized below. The application/declaration is available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application/declaration should submit their views in writing by October 22, 2002, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant/declarant at the address specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After October 22, 2002, the application/declaration, as filed or as amended, may be granted and/or permitted to become effective.

Allegheny Energy, Inc., et al. (70–7888)

Allegheny Energy, Inc. (''Allegheny''), 10435 Downsville Pike, Hagerstown, Maryland, a registered public utility holding company; its direct wholly owned public utility company subsidiaries Monongahela Power Company (''Monongahela Power''), 1310 Fairmont Avenue, Fairmont, West Virginia 26554, The Potomac Edison Company (''Potomac Edison''), 10435 Downsville Pike, Hagerstown, Maryland 21740 and West Penn Power Company (''West Penn''), 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601; its indirect wholly owned public utility subsidiaries Mountaineer Gas Company (Mountaineer Gas''),[1] 414 Summers Street, Charleston, West Virginia 25301 and Allegheny Generating Company (''AGC''),[2] 10435 Downsville Pike,

[1] Mountaineer Gas is wholly owned by Monongahela.

[2] AGC is jointly owned by Monongahela (27%) and Allegheny Energy Supply Company, LLC (73%)

Continued

Hagerstown, Maryland 21740; and Allegheny Energy Service Corporation, (''AESC''), a direct service company subsidiary of Allegheny, 800 Cabin Hill Drive, Greensburg, Pennsylvania 15601 (collectively ''Applicants'') have filed a post-effective amendment under sections 6, 7, 9(a)(1), 10, 12(d), 12(f) and 13 of the Act, and rules 45, 53 and 54 under the Act to their application-declaration originally filed under sections 6(a), 7, 9(a), 10 and 12(b) of the Act and rules 43, 45, 53 and 54 under the Act (''Application'').

By orders dated January 29, 1992 (HCAR No. 25462), February 28, 1992 (HCAR No. 25481), July 14, 1992 (HCAR No. 25581), November 5, 1993 (HCAR No. 25919), November 28, 1995 (HCAR No. 26418), April 18, 1996 (HCAR No. 26505), December 23, 1997 (HCAR No. 26804), May 19, 1999 (HCAR No. 27030), October 8, 1999 (HCAR No.27084), and December 17, 2001 (HCAR No. 27475) (''Prior Orders''), the Commission authorized, among other things, Allegheny, Monongahela, Potomac Edison, West Penn, AGC and AESC to establish and participate in a system money pool (''Money Pool'') and to issue short-term debt in the form of notes payable to banks (''Notes'') and commercial paper (''Commercial Paper''). The Prior Orders provide that Notes have a maturity of not more than 270 days after the date of issuance or renewal.

In this post-effective amendment, Applicants seek authorization, through December 31, 2005, for Mountaineer Gas to participate in the Money Pool and to expand the term for Notes issued in this file from 270 days to 364 days. Applicants are not seeking any other changes to the Money Pool agreement previously approved.

Applicants seek authority to add Mountaineer Gas to the Money Pool as a borrower and a lender, subject to the terms and conditions of the Money Pool agreement authorized in the Prior Orders. Applicants state Mountaineer Gas, like Monongahela, Potomac Edison, and West Penn, will use the proceeds of the borrowings from the Money Pool to operate its business as a natural gas utility, including the financing of construction and property acquisitions. Mountaineer's authority to issue short-term debt is limited to an aggregate amount not to exceed $100 million,[3] which limit will apply to any borrowings from the Money Pool.

Applicants also seek to modify the Prior Orders to conform the Notes maturity to the general short-term debt maturity of 364 days.[4] Applicants state the modification will allow Applicants to obtain bank financing consistent with the terms and documentation typically required by lending institutions, providing Applicants more ready access to bank financing or competitive rates and terms.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25164 Filed 10–2–02; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46539; File No. SR–CBOE–2002–30]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Amending Rule 8.85(a)(xi) and Rule 17.50 To Require Members To Use and Maintain CBOE's AutoQuote System as a Back-Up Quoting System

September 24, 2002.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 11, 2002 the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On September 3, 2002 the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of amendments to CBOE Rules 8.85(a)(xi) and Rule 17.50 to require members to use and maintain CBOE's AutoQuote System as a back-up quoting system. The text of the proposed rule change and Amendment No. 1 are available at the Exchange and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange seeks to adopt new Rule 8.85(a)(xi) which would state that, with respect to a Designated Primary Market-Maker (''DPM'') trading station utilizing a proprietary autoquote system, such DPM is obligated to assure that the CBOE AutoQuote system is maintained as a back-up at all times during market hours. The Exchange also proposes to add subparagraph (g)(10) to CBOE Rule 17.50—Imposition of Fines for Minor Rule Violations, to incorporate in its Minor Rule Violation Plan (''Plan'') violations of new Rule 8.85(a)(xi).

The CBOE AutoQuote system is provided by CBOE for use by its members and is available at every post on CBOE's options trading floor. It is available to assist DPMs and/or market makers (for trading crowds not operating under the DPM system) in automatically updating market quotations for the multitude of options series traded at any given trading station. The parameters of the AutoQuote system can be customized by CBOE traders in several areas including volatility, dividend, and what is used to represent the price of the underlying. To that end, CBOE Rule 8.85(a)(x) requires DPMs to determine a formula for generating automatically updated market quotations.

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both direct wholly owned public utility subsidiaries of Allegheny.

[3] HCAR 35–27210 (August 14, 2000) in SEC File No. 70–9625.

[4] Allegheny was authorized in SEC File No. 70–9897 (HCAR 27486, December 31, 2001) to issue short-term debt with a general maturity of not more than 364 days. Allegheny was specifically authorized to issue Notes and Commercial Paper with a maturity of not more that 270 days after the date of issuance or renewal. The Notes maturity was later extended to 364 days in HCAR 27521 (April 17, 2002).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Angelou Evangelou, Senior Attorney, CBOE, to Katherine England, Assistant Director, Division of Market Regulation, Commission, dated August 30, 2002.

While many DPMs utilize CBOE's AutoQuote system, some DPMs have opted to use non-CBOE proprietary automated quotation updating systems. CBOE has allowed members to employ proprietary autoquote systems provided such systems are approved by the Exchange's appropriate Floor Procedure Committee. The failure of a proprietary autoquote system could result in CBOE's inability to open for an entire group of listed option classes for a brief or sometimes lengthy time period. Thus, CBOE has strongly encouraged, and now seeks to require, that members have CBOE's AutoQuote system ready as a back-up should a proprietary system fail. CBOE believes failure to comply with the proposed requirement should be subject to sanction under the Exchange's Plan on a trading station by trading station basis.

Determining a violation would be objective in nature and very suitable for inclusion in the Plan. Still, because a DPM could be in violation for one minute or four hours, violations can vary greatly in terms of the impact on CBOE's marketplace. Therefore, the Exchange believes it is appropriate to allow for summary fines under the plan that could range from $100 to $2500 for first time violations and from $100 to $5000 (the minimum and maximum allowable under the Plan) for a limited number of subsequent violations. For egregious violations, including those that severely impact the trading of option classes on CBOE for an extended period of time, the Modified Trading System Appointments Committee (the committee charged with DPM supervision) would have the discretion to refer the matter to the CBOE Business Conduct Committee instead of handling the violation under the Plan. Further, in no event would more than three violations by the same DPM in any twelve-month period be handled under the Plan. CBOE floor officials would be responsible for issuing summary fines under the proposed rule. Lastly, because different trading stations operated by the same DPM organization can operate and maintain autoquote systems differently, the Exchange believes it is appropriate for the summary fines to be handled on a trading station by trading station basis.

2. Statutory Basis

Because the proposed rule change will refine and enhance the Exchange's Minor Rule Violation Plan to make it more efficient and effective, the proposed rule change is consistent with section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(5)[5] and 6(b)(7)[6] in particular, in that it is designed to promote just and equitable principles of trade, to protect investors and the public interest, and enhances the effectiveness and fairness of the Exchange's disciplinary procedures.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change and Amendment No. 1 should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change and Amendment No. 1 that are filed with the Commission, and all written communications relating to the proposed rule change and Amendment No. 1 between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–2002–30 and should be submitted by October 24, 2002.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25163 Filed 10–2–02; 8:45 am]

BILLING CODE 8010–01–P

[4] 15 U.S.C. 78(f).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78(f)(b)(7).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46562; File No. SR–NASD–2002–126]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by National Association of Securities Dealers, Inc. To Require Industry Parties in Arbitration To Waive Application of Contested California Arbitrator Disclosure Standards, Upon the Request of Customers and Associated Persons With Claims of Statutory Employment Discrimination, for a Six-Month Pilot Period

September 26, 2002.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on September 23, 2002, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. For the reasons described below, the Commission is granting accelerated approval to the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD is proposing to amend IM–10100 to require industry parties in arbitration to waive application of contested California arbitrator disclosure standards, upon the request

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

of customers that have waived the application of these standards (and, in industry cases, upon the request of associated persons with claims of statutory employment discrimination that have waived the application of these standards), for a six-month pilot period. Below is the text of the proposed rule change. Proposed new language is in *italics;* proposed deletions are in [brackets].

* * * * *

IM–10100. Failure To Act Under Provisions of Code of Arbitration Procedure

It may be deemed conduct inconsistent with just and equitable principles of trade and a violation of Rule 2110 for a member or a person associated with a member to:

(a)–(e) No change.

(f) fail to waive the California Rules of Court, Division VI of the Appendix, entitled, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration'' (the ''California Standards''), if all the parties in the case who are customers have waived application of the California Standards in that case; or

(g) fail to waive the California Standards, if all the parties in the case who are associated persons with a claim alleging employment discrimination, including a sexual harassment claim, in violation of a statute have waived application of the California Standards in that case.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change.[3] The text of these statements may be examined at the places specified in Item III below. NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NASD's foremost interest is to serve investors who bring their claims to the NASD by providing a fair, efficient arbitration forum at a modest cost. To this end, NASD spent several months trying to resolve the issues created by the recent California Rules of Court, Division VI of the Appendix, entitled, ''Ethics Standards for Neutral Arbitrators in Contractual Arbitration'' (the ''California Standards''), which are described in more detail below. Only as a last resort, when it became clear that NASD could not resolve these issues consistent with providing a fair and efficient national forum, did NASD, along with the New York Stock Exchange (''NYSE''), conclude that NASD should cease appointing arbitrators in California and institute litigation.[4]

NASD and NYSE have filed a joint complaint in federal court for declaratory relief[5] in which they contend the California Standards cannot lawfully be applied to NASD and NYSE (both registered as self-regulatory organizations (''SROs'') with the SEC under the Act) and their arbitrators because the California Standards are preempted by federal law and are inapplicable to SROs under state law.[6] Pursuant to the parties' agreement, the court directed expedited proceedings.

While waiting for the Court's guidance on this issue, NASD and NYSE announced that they were temporarily postponing the appointment of arbitrators for new arbitration cases in California until their concerns over the new rules governing the arbitration process in that state were addressed. Since appointments stopped on July 1, 2002, approximately five hundred NASD and NYSE California cases have been affected. In an effort to keep cases moving, NASD and NYSE have offered California parties several alternatives, enumerated below.

On September 5, 2002, the Chairmen of NASD and NYSE received a request from Harvey L. Pitt, Chairman of the SEC, to further expedite processing of arbitration claims involving California parties. In response, NASD Chairman Robert R. Glauber stated that NASD would work closely with SEC staff to develop interim steps to process California cases. Having done so, NASD now proposes implementation of a six-month pilot amendment to IM–10100 that will require all parties that are member firms or associated persons to waive the California Standards if all the parties in the case who are customers or associated persons with a statutory employment discrimination claim[7] have waived application of the California Standards in that case. Under such a waiver, the case would proceed in California under the existing NASD Code, which already contains extensive disclosure requirements and provisions for challenging arbitrators with potential conflicts of interest.

NASD will notify parties (and their representatives, if any) who currently are awaiting the appointment of arbitrators in California of the terms of this new rule upon its approval by the Commission, and will provide them with the waiver forms.

Background

On July 1, California introduced new rules governing the arbitration process in that state. The rules were designed to address conflicts of interest in private arbitration forums that are not part of a federal regulatory system overseen on a uniform, national basis by the SEC. The NASD and NYSE not-for-profit, highly regulated dispute resolution programs have in place appropriate conflict of interest rules.

The California Standards put extreme and unnecessary disclosure burdens on individuals who serve on NASD arbitration panels and already meet stringent disclosure rules. The extensive record-keeping requirements for arbitrators, coupled with potential liability for even inadvertent violations of the California Standards, led NASD to

[3] The discussion in this section represents the NASD's views on the situation in California, and does not in any way represent a Commission position on this issue.

[4] *See* Motion for Declaratory Judgment, *NASD Dispute Resolution, Inc. and New York Stock Exchange, Inc.* v. *Judicial Council of California,* filed in the United States District Court for the Northern District of California, No. C 02 3486 SBA (July 22, 2002), available on the NASD Web site at: *http://www.nasdadr.com/pdf-text/072202_ca_complaint.pdf.*

[5] As noted above, NASD and NYSE filed a lawsuit on July 22, 2002, seeking a declaratory judgment that the Standards that went into effect in California on July 1, 2002 do not apply to arbitrations conducted by NASD or the NYSE as a matter of federal law. The suit has three legal bases: that securities regulation is part of a pervasive system of federal regulation and state efforts to regulate SRO-administered arbitration are impermissible; that California's rules are preempted by the Federal Arbitration Act, as interpreted by the United States Supreme Court; and that the California rules improperly expanded on the definition of neutral arbitrator as provided in California statutory law. The parties to the litigation have entered into a stipulation for the court to adjudicate the case on an expedited basis.

[6] On September 19, 2002, the SEC sought leave of the court to file a friend of the court (''amicus curiae'') brief in which it contended that the California Standards are preempted by federal law. Brief of the Securities and Exchange Commission, Amicus Curiae, in Support of Plaintiffs' Motion for Declaratory Judgment, *NASD Dispute Resolution, Inc. and New York Stock Exchange, Inc.* v. *Judicial Council of California,* No. C 02 3486 SBA (N.D. Cal.). The brief is available on the SEC Web site at: *http://www.sec.gov/litigation/briefs/nasddispute.pdf.*

[7] The amendment will require members to waive the Standards not only at the request of customers that have waived, but also in industry cases in which the parties who are associated persons with claims of statutory employment discrimination have waived, since such claims already are subject to special procedures in arbitration (*see* NASD Rule 10201(b) and the NASD Rule 10210 Series).

conclude that, if NASD were required to implement the California rules, investors and other parties would be saddled with higher costs, a less efficient and streamlined process, and a much smaller arbitrator roster from which to select the panelists who will decide their cases. Under the California Standards, even inadvertent non-disclosure of immaterial relationships is a basis for removal of an arbitrator and vacatur of an award. The California Standards remove from the alternative dispute resolution administrator the power to decide contested challenges to arbitrators, instead vesting this authority unilaterally in any party to the arbitration. As currently drafted, the California Standards would allow a party unilaterally to challenge and remove one arbitrator after another, thus destroying any notion of arbitral finality and closure. Accordingly, both NASD and NYSE filed extensive comments when the rules were proposed in February 2002, followed by meetings between NASD and NYSE officials and Judicial Council and Legislative staff. Despite these efforts, the California Standards were promulgated without addressing the fundamental concerns expressed by NASD and the NYSE. As a result, both forums announced in July 2002 that they were postponing the appointment of arbitrators for new arbitration cases in California until this matter could be resolved.

Measures Previously Implemented

NASD has taken several steps to help investors deal with the delay in California cases. Specifically, NASD announced that it would provide venue changes for arbitration cases and absorb the extra administrative costs associated with the change of venue, use non-California arbitrators when appropriate, and waive its administrative fees for NASD-sponsored mediations. To accommodate cases being heard outside of California, NASD added Reno, Nevada as a new hearing location to the existing sites in Portland, Oregon; Seattle, Washington; Phoenix, Arizona; and Las Vegas, Nevada. On September 3, 2002, NASD further enhanced the venue selection for investors by announcing that cases would be moved outside of California at the request of an investor; member firm acquiescence is no longer required.

To educate parties about these measures, NASD posted on its Web site specific guidance announcing and elaborating on these steps. Importantly, NASD also advised that investors who believe they have disputes with their brokers should not delay in filing their cases with an SRO forum because of statutes of limitations. NASD also advised that NASD is still processing California cases as they are filed up to the point of sending out lists of arbitrators (or appointing arbitrators, in cases that had already passed the list selection stage). NASD announced that the 660 California cases that had already been paneled prior to July 1, 2002 would continue in the normal course.

Finally, to accommodate investors with exigent circumstances (*e.g.*, elderly investors or investors with infirmities), NASD has paneled cases at the request of the investor or the investor's representative in situations where both the investor and the broker/dealer have agreed in writing to waive the California standards.

Proposed Rule Change

In its ongoing efforts to accommodate California parties in its forum, NASD is taking additional steps to resume paneling of California cases while the litigation between California and the NASD and NYSE continues. The proposed rule will require industry parties to waive the California Standards in all cases in which all the parties in the case who are customers (or, in industry cases, who are associated persons with claims of statutory employment discrimination) agree to waive application of the Standards. Under such a waiver, the case would proceed in California under the existing NASD Code, which already contains extensive disclosure requirements and provisions for challenging arbitrators with potential conflicts of interest.

Starting immediately, NASD will resume issuing lists of proposed arbitrators in California cases from which the parties select their panels under the current Neutral List Selection System (NLSS). Once the proposed rule is effective, NASD will send letters to investors and associated persons with claims of statutory employment discrimination, giving them the option of waiving the California Standards and providing them with waiver forms. NASD is taking other steps to inform investors of how they can move their arbitration cases forward under this situation. NASD staff members have spoken with numerous investors and other parties, and their representatives, and will continue to do so, as well as sending written material and posting information to its Web site.

At the same time, NASD will notify industry parties in all pending California cases that they must waive the California Standards where the investor agrees to a waiver (or associated person, in the circumstances described above). Industry parties in such cases will be required to execute waiver agreements; however, their failure to do so will not stop the cases from moving forward [8] and the failure to sign as required by the proposed rule change will be referred for disciplinary action.

Where all parties waive the California Standards as provided in the proposed rule change, NASD will immediately commence the arbitrator appointment process using the NASD Code of Arbitration Procedure guidelines regarding arbitrator disclosure, and not the California Standards. This opportunity will apply to those cases where NASD is ready to appoint arbitrators based on lists already executed by the parties, and those cases where there is a vacancy in a previously appointed panel.

NASD requests that the rule change become effective on September 30, 2002, for a six-month pilot period.[9]

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[10] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that expediting the appointment of arbitrators under the proposed waiver, at the request of customers (and, in industry cases, associated persons with claims of statutory employment discrimination), will allow those parties to exercise their contractual rights to proceed in arbitration in California, notwithstanding the confusion caused by the disputed California Standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[8] In these situations, the NASD will treat the industry parties as having waived the California standards.

[9] If the outcome of the lawsuit is that the California Standards do not apply to NASD arbitration, waivers would no longer be necessary. Cases in which arbitrators were appointed pursuant to waivers would continue to their conclusion. If the lawsuit has not concluded at the expiration of the six-month pilot period, NASD may request an extension.

[10] 15 U.S.C. 78*o*–3(b)(6).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2002–126 and should be submitted by October 24, 2002.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association, and, in particular, the requirements of Section 15A of the Act.[11] Specifically, the Commission finds that the proposal is consistent with Section 15A(b)(6) of the Act, which requires that the rules be designed to promote just and equitable principles of trade, as well as to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.[12] The Commission further finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice thereof in the **Federal Register**. Accelerated approval is necessary to protect investors in that the rules are designed to help address the backlog of cases created by the confusion over the new California standards, are designed to provide them with a mechanism to help resolve their disputes with broker-dealers in a more expedited manner, and are designed to help ensure the certainty and finality of arbitration awards. Additionally, the proposed rule change will become effective as a pilot program for six months, from September 30, 2002 to March 30, 2003, during which time the Commission and NASD will monitor the status of the previously discussed litigation.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NASD–2002–126) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25104 Filed 10–2–02; 8:45 am]

BILLING CODE 8010–01–P

[11] 15 U.S.C. 78*o*–3.

[12] 15 U.S.C. 78o–3(b)(6).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–46560; File No. SR–NYSE–00–31]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 Thereto by the New York Stock Exchange, Inc. To Amend Exchange Rules 36.30 and 104A.50

September 26, 2002.

I. Introduction

On July 3, 2000, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change amending NYSE Rules 36.30 and 104A.50. The Exchange submitted Amendment No. 1 to the proposed rule change on May 21, 2001.[3] The proposed rule change was published for public comment in the **Federal Register** on June 16, 2001.[4] The Exchange submitted Amendment Nos. 2 and 3 to the proposed rule change on February 6, 2002 [5] and September 20, 2002,[6] respectively. The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as amended by Amendments Nos. 1, 2 and 3.[7] This order also issues notice of filing of, and grants accelerated approval to, Amendment Nos. 2 and 3 thereto.

II. Description of the Proposed Rule Change

NYSE Rule 36.30 governs the use of telephone lines at a specialist unit's post. The rule currently permits telephone lines from the post to the unit's off-floor offices and to the unit's clearing firm. The rule also permits specialists to have telephone lines to the floor of an options or futures exchange for the purpose of entering hedging orders on the floors of those exchanges.

The Exchange proposes to amend NYSE Rule 36.30 to more clearly

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange submitted a new Form 19b-4, which replaces and supersedes the original filing in its entirety (''Amendment No. 1''). Amendment No. 1 withdraws the proposed amendments to NYSE Rule 36.20 in the original filing that would have permitted certain off-floor communications by members on the floor. The NYSE has stated that these amendments will be subject to a separate filing. Amendment No. 1 also amends proposed NYSE Rule 36.30A to clarify the manner in which Exchange specialists may communicate proprietary orders in foreign specialty stock from their post to off-floor broker-dealers. Finally, Amendment No. 1 amends proposed NYSE Rule 36.30C to include in the definition of foreign security depositary shares that represent a foreign company's publicly traded security.

[4] Securities Exchange Act Release No. 44368 (May 30, 2001), 66 FR 30494.

[5] See Letter from Darla Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated January 31, 2002 (''Amendment No. 2''). Amendment No. 2 amends proposed Commentary .30 to NYSE Rule 36 to: (i) Add language stating that specialists relying on the rule must have an objective of facilitating the maintenance of a fair and orderly market on the Exchange; (ii) delete proposed subsection A.3; (iii) define ''communication link;'' (iv) clarify that NYSE Rule 92, on trading ahead, would apply to specialists entering proprietary orders in foreign securities; and (v) clarify that specialists are prohibited from using the communication links to receive material nonpublic information, and that if such information is received, the specialist must contact his firm's compliance officer, who must determine whether the specialist is permitted to continue to trade the stock.

[6] See Letter from Darla Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation, Commission, dated September 19, 2002 (''Amendment No. 3''). Amendment No. 3 deletes the phrase ''among other means'' from the definition of ''communication link'' in proposed NYSE Rule 36.30D.

[7] The Commission has requested from the Exchange an explanation of the surveillance procedures it intends to implement to ensure that specialists comply with the proposed rule, as amended. This approval order is contingent upon the submission of these surveillance procedures as well as the Commission's finding that such surveillance procedures are adequate.

identify the types of communications that may emanate from the post. The words ''communication link'' would replace ''telephone'' to encompass a wider range of communication methods, and would include a post telephone or terminal of an automated trading system, or similar device whereby information relating to the transmission of an order from the Exchange may be communicated.[8] The definition of communication link in the NYSE's proposal further states that the specialist may not maintain a communication link to a foreign exchange or market. In addition, in no instance would the specialist be permitted to use the link to receive material nonpublic information.

Under the new rule, specialists in foreign securities would be allowed to enter orders in their foreign specialty or related stocks directly from the post using a communication link. In that regard, the rule would permit a specialist to enter orders only to purchase or sell specialty or related foreign securities through a broker-dealer registered with the Commission or directly with a foreign broker-dealer pursuant to Rule 15a–6 under the Act.[9] The rule also states that in making such purchases or sales the specialists relying on the rule must have an objective of facilitating the maintenance of a fair and orderly market.[10] The prohibition on receiving orders for the purchase or sale of securities at the post would be retained. The term ''foreign security'' would be defined to include a foreign ordinary security, a depositary receipt or a depositary share representing a foreign security.[11]

The proposed rule change would also permit specialists to use the communication link to seek public information on the current market for a foreign security.[12] The communication links could be used to receive public information on stocks, data for the U.S. or foreign markets, vendor services or news. The communication link would not be used to give nonmembers market look information.

The Exchange also proposes to amend NYSE Rule 104A.50 to require specialists to record and report to the Exchange the details of all proprietary transactions executed by the specialist unit away from the Exchange in foreign securities. The Exchange would inform specialists that the reports would be required to be submitted on Form 81, the electronic reporting mechanism already used by specialists to report proprietary transactions in specialty stocks.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[13] which requires an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Commission believes that the proposed rule change should help specialists to more easily acquire inventory in foreign specialty stocks to meet the needs of the NYSE market and respond to changes in the related foreign market. The Commission notes that the proposal contains several requirements and prohibitions that help to ensure that any orders entered, or public information received, by the specialist in foreign specialty or related securities is in accordance with the U.S. securities laws and NYSE rules. For instance, the rule would prohibit the communication link from being used for the purpose of transmitting orders for securities to the NYSE floor. The rule also prohibits the specialist from maintaining a communication link to a foreign exchange or market. In addition, the rule specifically requires that any communication link at the specialist post be to a registered broker-dealer or a foreign broker-dealer subject to and in accordance with Rule 15a–6 under the Act.

In addition to the requirements noted above, the Commission also believes that certain additional limitations and restrictions in the rule should help to minimize any potential for abuse. First, the Commission notes that the specialist would be prohibited from using the communication link to receive material non-public information.[14] Second, the Commission notes that NYSE Rule 92 would prohibit a specialist using the communication link to enter a proprietary order in a foreign security from trading ahead of orders for the same security that the specialist is representing as agent.[15] Third, specialists would only be permitted to use the communication link to enter orders in their foreign specialty or related stocks. Finally, the Commission notes that a specialist relying on the rule must have the objective of facilitating the maintenance of a fair and orderly market on the Exchange.[16]

As noted above, the Commission has requested submission of adequate surveillance procedures to assure compliance with the rule, including all of the prohibitions and requirements set forth above. This approval order is contingent on the submission of such adequate surveillance procedures.[17]

Finally, the Commissions believes that the other changes to the rule are consistent with the requirements of the Act. For example, the change from ''telephone line'' to ''communication link'' should allow more flexibility in the rule to use other land-based communication lines. The surveillance procedures that the Exchange must submit for Commission approval should help to ensure that such communication link can be adequately monitored for compliance with the rule.[18] The Commission also notes that NYSE 104.50A requires specialists to keep a record of all purchases and sales of foreign securities for an account in which the specialist has an interest, and to report such transactions to the Exchange. The Commission believes that this provision is consistent with the Act because it should help the Exchange to monitor trades under the new rule.

The Commission finds good cause for accelerating approval of Amendment Nos. 2 and 3 to the proposed rule change prior to the thirtieth day after publication in the **Federal Register**. The

[8] *See* infra, note 18.

[9] 17 CFR 240.15a-6.

[10] *See e.g.* NYSE Rule 104.

[11] Under proposed Rule 36.30C, a specialist could only make such purchases or sales in foreign securities in which he is registered as the specialist, or certain securities that are related to the security in which the specialist is registered. The rule would permit a specialist registered in the depositary receipt or share only to enter orders either in such security or the related ordinary security. A specialist registered in the ordinary security would be permitted to enter orders in such security, or where applicable, a related depositary receipt or share.

[12] *See* Amendment No. 2, *supra* note 5.

[13] 15 U.S.C. 78f(b)(5).

[14] *See* Amendment No. 2, *supra* note 5.

[15] *Id.*

[16] *Id.* The Commission believes that the surveillance procedures should include procedures that ensure compliance with each of these prohibitions, as well as the other restrictions noted above in this order.

[17] *See* note 7, *supra.*

[18] *See* Amendment No. 2, *supra* note 5. The Commission notes that the definition of communication link does not permit the NYSE specialist to use portable telephones or other private wireless communication devices. If the NYSE wanted to permit such devices to be used under its Rule 36.30 it would first have to submit for Commission approval (i) a proposed rule change under Section 19(b) of the Act and (ii) specific surveillance procedures to ensure that communications using these types of devices are adequately surveilled and monitored for compliance with the rule and other regulatory requirements.

Commission notes that Amendment No. 2 provides useful clarification and add certain requirements to the proposal in response to concerns of Commission staff.[19] Amendment No. 3 eliminates language to rule that was confusing and helps to narrow and clarify the definition of communication link.[20] The Commission also notes that the substance of the proposal was published for comment and no comments were received. Accordingly, the Commission finds that good cause exists, consistent with sections 6(b)(5) of the Act,[21] and 19(b)(2) of the Act [22] to accelerate approval of Amendment Nos. 2 and 3 to the proposed rule change.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[23] that the proposed rule change (SR–NYSE–00–31), as amended, is approved.[24]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[25]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 02–25165 Filed 10–2–02; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3448]

State of Texas; Disaster Loan Areas

As a result of the President's major disaster declaration on September 26, 2002, I find that Brazoria, Frio, Galveston, La Salle, Live Oak, Matagorda, Nueces, San Patricio and Wharton Counties in the State of Texas constitute a disaster area due to damages caused by Tropical Storm Fay occurring on September 6, 2002, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 25, 2002 and for economic injury until the close of business on June 26, 2003 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Fort Worth, TX 76155.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Aransas, Atascosa, Austin, Bee, Chambers, Colorado, Dimmit, Duval, Fort Bend, Harris, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, McMullen, Medina, Refugio, Uvalde, Webb and Zavala in the State of Texas.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	6.625
Homeowners Without Credit Available Elsewhere	3.312
Businesses With Credit Available Elsewhere	7.000
Businesses and Non-Profit Organizations Without Credit Available Elsewhere	3.500
Others (Including Non-Profit Organizations) With Credit Available Elsewhere	6.375
For Economic Injury: Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere	3.500

The number assigned to this disaster for physical damage is 344811. For economic injury the number is 9R8000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: September 26, 2002.

S. George Camp,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 02–25144 Filed 10–2–02; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4141]

Determination on Report on Colombian Aerial Spray Program

AGENCY: Department of State.

ACTION: Notice.

Pursuant to the Kenneth M. Ludden Foreign Operations, Export Financing and Related Programs Appropriations Act, 2002 (Public Law 107–115), and after consultation with the Administrator of the Environmental Protection Agency and the Secretary of the Department of Agriculture, I hereby determine that:

(1) Aerial coca fumigation is being carried out in Colombia in accordance with regulatory controls required by the Environmental Protection Agency as labeled for use in the United States; and in accordance with Colombian laws as confirmed by the Colombian Government;

(2) The chemicals used in the aerial spraying of coca, in the manner in which they are being applied, do not pose unreasonable risks or adverse effects to humans or the environment; and

(3) Procedures are available to evaluate claims of local citizens that their health was harmed or their licit agricultural crops were damaged by such aerial coca fumigation and to provide fair compensation for meritorious claims; and that alternative development programs have been developed (in consultation with communities and local authorities in the departments in which such aerial coca fumigation is planned, and in the departments in which such aerial coca fumigation has been conducted) and such programs are being implemented.

You are hereby authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.

Dated: September 4, 2002.

Richard L. Armitage,

Deputy Secretary of State, Department of State.

[FR Doc. 02–25169 Filed 10–2–02; 8:45 am]

BILLING CODE 4710–10–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Technical Corrections to the Harmonized Tariff Schedule of the United States

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: The United States Trade Representative (USTR) is making technical corrections to subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) as set forth in the annex to this notice, pursuant to authority delegated to the USTR in Presidential Proclamation 6969 of January 27, 1997 (62 FR 4415). These modifications correct inadvertent errors in the Annex to Presidential Proclamation 7585 of August 28, 2002 (67 FR 56207) so that the intended tariff treatment is provided.

EFFECTIVE DATE: The corrections made in this notice are effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after September 1, 2002.

FOR FURTHER INFORMATION CONTACT: Office of Industry, Office of the United States Trade Representative, 600 17th Street, NW., Room 501, Washington DC, 20508. Telephone (202) 395–5656.

[19] *See* Amendment No. 2, *supra* note 5.

[20] *See* Amendment No. 3, *supra* note 6.

[21] 15 U.S.C 78f(b)(5).

[22] 15 U.S.C. 78s(b)(2).

[23] 15 U.S.C. 78s(b)(2).

[24] *See* notes 7 and 16 and accompanying text, *supra.*

[25] 17 CFR 200.30–3(a)(12).

SUPPLEMENTARY INFORMATION: On February 18, 2000, pursuant to section 203 of the Trade Act of 1974, as amended (the ''Trade Act'') (19 U.S.C. 2253), the President issued Proclamation 7274, which imposed additional duties on certain circular welded carbon quality line pipe (''line pipe'') provided for in subheadings 7306.10.10 and 7306.10.50 of the HTS. On July 29, 2002, the United States Trade Representative (''USTR'') negotiated an agreement with the Republic of Korea limiting the export from Korea and import into the United States of line pipe through the implementation of a tariff-rate quota, to take effect on September 1, 2002. Proclamation 7585 of August 28, 2002, revised the additional duties on line pipe from Korea, replacing them with a tariff-rate quota in the terms provided for under the agreement with Korea. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after September 1, 2002, and prior to the close of March 1, 2003, Proclamation 7585 modified subchapter III of chapter 99 of the HTS so as to provide for such tariff-rate quota.

Technical errors introduced through the annex to Proclamation 7585 have come to the attention of USTR. The annex to this notice makes technical corrections to the HTS to remedy these errors. In particular, the annex to this notice corrects errors in the tariff subheadings created by the Annex to Proclamation 7585 and the amount of the tariff-rate quota.

Proclamation 6969 authorized the USTR to exercise the authority provided to the President under section 604 of the Trade Act of 1974 (19 U.S.C. 2483) to embody rectifications, technical or conforming changes, or similar modifications in the HTS. Under authority vested in the USTR by Proclamation 6969, the rectifications, technical and conforming changes, and similar modifications set forth in the annex to this notice shall be embodied in the HTS with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date set forth in each item in the Annex to this notice.

Robert B. Zoellick,

United States Trade Representative.

Annex

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern daylight time on September 1, 2002, and prior to the close of March 1, 2003, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States is modified as follows:

1. The insertion in the superior text to subheadings 9903.72.20 through 9903.72.25 made by item 1 of the annex to Presidential Proclamation 7585 of August 28, 2002 (67 Fed. Reg. 56207) should have read ''of Canada or of Mexico'', and the HTS is therefore modified accordingly.

2. Subheadings 9903.73.24, 9903.73.25, 9903.73.26, 9903.73.27, 9903.73.28 and 9903.73.29, as added to the HTS by item 2 of the annex to that Proclamation, are redesignated as subheadings 9903.72.24, 9903.72.25, 9903.72.26, 9903.72.27, 9903.72.28 and 9903.72.29, respectively.

3. Subheadings 9903.72.25 and 9903.72.26 (as redesignated by item 2 of this annex) are each modified by deleting ''31,751,733 kg'' and by inserting ''15,875,895 kg'' in lieu thereof.

[FR Doc. 02–25088 Filed 10–2–02; 8:45 am]

BILLING CODE 3190–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–02–13409]

Highway Safety Programs; Model Specifications for Devices To Measure Breath Alcohol

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice amends the Conforming Products List for instruments that conform to the Model Specifications for Evidential Breath Testing Devices (58 FR 48705).

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Dr. James F. Frank, Research and Technology Office, Behavioral Research Division (NTI–131), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366–5593.

SUPPLEMENTARY INFORMATION: On November 5, 1973, the National Highway Traffic Safety Administration (NHTSA) published the Standards for Devices to Measure Breath Alcohol (38 FR 30459). A Qualified Products List of Evidential Breath Measurement Devices comprised of instruments that met this standard was first issued on November 21, 1974 (39 FR 41399).

On December 14, 1984 (49 FR 48854), NHTSA converted this standard to Model Specifications for Evidential Breath Testing Devices, and published a Conforming Products List (CPL) of instruments that were found to conform to the Model Specifications as Appendix D to that notice (49 FR 48864).

On September 17, 1993, NHTSA published a notice (58 FR 48705) to amend the Model Specifications. The notice changed the alcohol concentration levels at which instruments are evaluated, from 0.000, 0.050, 0.101, and 0.151 BAC, to 0.000, 0.020, 0.040, 0.080, and 0.160 BAC; added a test for the presence of acetone; and expanded the definition of alcohol to include other low molecular weight alcohols including methyl or isopropyl. On July 21, 2000, the most recent amendment to the Conforming Products List (CPL) was published (65 FR 45419), identifying those instruments found to conform with the Model Specifications.

Since the last publication of the CPL, seven (7) instruments have been evaluated and found to meet the model specifications, as amended on September 17, 1993, for mobile and non-mobile use. In alphabetical order by company, they are: (1) Alert J4X.ec manufactured by Alcohol Countermeasure Systems, Inc. of Mississauga, Ontario, Canada. This is a hand held device that uses a fuel cell sensor and is powered by an internal battery. (2) Intoxilyzer 8000 manufactured by CMI, Inc. of Owensboro, KY. This is a non-dispersive infrared device which uses the 3.4 micron and the 9 micron band for measurement of alcohol. It is powered by 120 volts AC power or by 12 volts DC power from a car battery. (3) Intoxilyzer S–D5 manufactured by CMI, Inc. of Owensboro, KY. This device is a hand-held device that uses a fuel cell sensor. (4) The new Alco-Sensor III with serial numbers above 1,200,000. This is an enhanced version of the earlier Alco-Sensor III. The enhanced version has a new fuel cell and a microprocessor that improves performance. It is a hand held device intended for stationary or roadside operations. As indicated, it uses a fuel cell sensor and is powered by an internal battery. (5) The Intox EC/IR 2 manufactured by Intoximeters, Inc. of St. Louis, Missouri. This is a bench top device intended primarily for use in stationary operations. It uses a fuel cell sensor and can be powered by either 110 volts AC or 9 volts DC power sources. (6) The FC 10, manufactured by Lifeloc Technologies, Inc. of Wheat Ridge, CO. This is a handheld device that uses a fuel cell sensor. (7) The FC 20, also manufactured by Lifeloc Technologies, Inc. of Wheat Ridge, CO. This is also a handheld device that uses a fuel cell sensor. The Lifeloc FC 20 is similar to the FC 10 except that it has additional features that are not addressed by the model specifications.

Finally, three devices are being removed from the CPL, because they are

no longer manufactured and are no longer in use. They are: (1) Alco.Tector Model 500, manufactured by Decator Electronics of Decator, Illinois. This device was introduced more than 30 years ago. It has not been manufactured for at least 20 years, and its manufacturer is no longer in existence. It would be impossible to repair because replacement parts are not available. The agency has no knowledge of any such devices in use. (2) The AE–D1 manufactured by Lion Laboratories, Ltd. of Cardiff, Wales, UK. The manufacturer has confirmed in writing that this unit is totally obsolete, no longer in use and no longer in production. (3) The Auto-Alcolmeter manufactured by Lion Laboratories, Ltd. of Cardiff, Wales, UK. The manufacturer has also confirmed in writing that this unit is totally obsolete, no longer in use and no longer in production.

The CPL has been amended to add the seven instruments identified above to the list, and to remove the three instruments also identified above.

In accordance with the foregoing, the CPL is therefore amended, as set forth below.

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES

Manufacturer and model	Mobile	Nonmobile
Alcohol Countermeasure Systems Corp., Mississauga, Ontario, Canada:		
Alert J3AD*	X	X
Alert J4X.ec	X	X
PBA3000C	X	X
BAC Systems, Inc., Ontario, Canada: Breath Analysis Computer*	X	X
CAMEC Ltd., North Shields, Tyne and Ware, England: IR Breath Analyzer*	X	X
CMI, Inc., Owensboro, KY:		
Intoxilyzer Model:		
200	X	X
200D	X	X
300	X	X
400	X	X
400PA	X	X
1400	X	X
4011*	X	X
4011A*	X	X
4011AS*	X	X
4011AS–A*	X	X
4011AS–AQ*	X	X
4011 AW*	X	X
4011A27–10100*	X	X
4011A27–10100 with filter*	X	X
5000	X	X
5000 (w/Cal. Vapor Re-Circ.)	X	X
5000 (w/3/8″ ID Hose option)	X	X
5000CD	X	X
5000CD/FG5	X	X
5000EN	X	X
5000 (CAL DOJ)	X	X
5000VA	X	X
8000	X	X
PAC 1200*	X	X
S–D2	X	X
S–D5	X	X
Draeger Safety, Inc., Durango, CO:		
Alcotest Model:		
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MKIII–C	X	X
7410	X	X
7410 Plus	X	X
Breathalyzer Model:		
900*	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410–II	X	X
Gall's Inc., Lexington, KY: Alcohol Detection System-A.D.S. 500	X	X
Intoximeters, Inc., St. Louis, MO:		
Photo Electric Intoximeter*	.....	X
GC Intoximeter MK II*	X	X
GC Intoximeter MK IV*	X	X
Auto Intoximeter*	X	X
Intoximeter Model:		
3000*	X	X
3000 (rev B1)*	X	X
3000 (rev B2)*	X	X
3000 (rev B2A)*	X	X
3000 (rev B2A) w/FM option*	X	X

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile
3000 (Fuel Cell)*	X	X
3000 D*	X	X
3000 DFC*	X	X
Alcomonitor	.....	X
Alcomonitor CC	X	X
Alco-Sensor III	X	X
Alco-Sensor III (Enhanced with Serial Numbers above 1,200,000)	X	X
Alco-Sensor IV	X	X
Alco-Sensor IV–XL	X	X
Alco-Sensor AZ	X	X
RBT–AZ	X	X
RBT III	X	X
RBT III–A	X	X
RBT IV	X	X
RBT IV with CEM (cell enhancement module)	X	X
Intox EC/IR	X	X
Intox EC/IR 2	X	X
Portable Intox EC/IR	X	X
Komyo Kitagawa, Kogyo, K.K.:		
Alcolyzer DPA–2*	X	X
Breath Alcohol Meter PAM 101B*	X	X
Lifeloc Technologies, Inc., (formerly Lifeloc, Inc.), Wheat Ridge, CO:		
PBA 3000B	X	X
PBA 3000–P*	X	X
PBA 3000C	X	X
Alcohol Data Sensor	X	X
Phoenix	X	X
FC 10	X	X
FC 20	X	X
Lion Laboratories, Ltd., Cardiff, Wales, UK:		
Alcolmeter Model:		
300	X	X
400	X	X
SD–2*	X	X
EBA*	X	X
Intoxilyzer Model:		
200	X	X
200D	X	X
1400	X	X
5000 CD/FG5	X	X
5000 EN	X	X
Luckey Laboratories, San Bernadino, CA:		
Alco-Analyzer Model:		
1000*	.....	X
2000*	.....	X
National Draeger, Inc., Durango, CO:		
Alcotest Model:		
7010*	X	X
7110*	X	X
7110 MKIII	X	X
7110 MKIII–C	X	X
7410	X	X
7410 Plus	X	X
Breathalyzer Model:		
900*	X	X
900A*	X	X
900BG*	X	X
7410	X	X
7410–II	X	X
National Patent Analytical Systems, Inc., Mansfield, OH:		
BAC DataMaster (with or without the Delta-1 accessory)	X	X
BAC Verifier Datamaster (with or without the Delta-1 accessory)	X	X
DataMaster cdm (with or without the Delta-1 accessory)	X	X
Omicron Systems, Palo Alto, CA:		
Intoxilyzer Model:		
4011*	X	X
4011AW*	X	X
Plus 4 Engineering, Minturn, CO: 5000 Plus4*	X	X
Seres, Paris, France:		
Alco Master	X	X
Alcopro	X	X
Siemans-Allis, Cherry Hill, NJ:		

CONFORMING PRODUCTS LIST OF EVIDENTIAL BREATH MEASUREMENT DEVICES—Continued

Manufacturer and model	Mobile	Nonmobile
Alcomat*	X	X
Alcomat F*	X	X
Smith and Wesson Electronics, Springfield, MA:		
Breathalyzer Model:		
900*	X	X
900A*	X	X
1000*	X	X
2000*	X	X
2000 (non-Humidity Sensor)*	X	X
Sound-Off, Inc., Hudsonville, MI:		
AlcoData	X	X
Seres Alco Master	X	X
Seres Alcopro	X	X
Stephenson Corp.:		
Breathalyzer 900*	X	X
U.S. Alcohol Testing, Inc./Protection Devices, Inc., Rancho Cucamonga, CA:		
Alco-Analyzer 1000		X
Alco-Analyzer 2000		X
Alco-Analyzer 2100	X	X
Verax Systems, Inc., Fairport, NY:		
BAC Verifier*	X	X
BAC Verifier Datamaster	X	X
BAC Verifier Datamaster II*	X	X

*Instruments marked with an asterisk (*) meet the Model Specifications detailed in 49 FR 48854 (December 14, 1984) (*i.e.*, instruments tested at 0.000, 0.050, 0.101, and 0.151 BAC.) Instruments not marked with an asterisk meet the Model Specifications detailed in 58 FR 48705 (September 17, 1993), and were tested at BACs = 0.000, 0.020, 0.040, 0.080, and 0.160. All instruments that meet the Model Specifications currently in effect (dated September 17, 1993) also meet the Model Specifications for Screening Devices to Measure Alcohol in Bodily Fluids.

(23 U.S.C. 402; delegations of authority at 49 CFR 1.50 and 501.1)

Issued on: September 27, 2002.

Marilena Amoni,

Associate Administrator for Program Development and Delivery.

[FR Doc. 02–25185 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–839 (Sub–No. 1X)]

Kiowa, Hardtner and Pacific Railroad Company—Abandonment Exemption—in Barber County, KS

Kiowa, Hardtner and Pacific Railroad Company (KHP) has filed a notice of exemption under 49 CFR Part 1152 Subpart F-*Exempt Abandonments* to abandon its entire 9.93-mile line of railroad between milepost 571.85 at Kiowa and milepost 581.78 at Hardtner, in Barber County, KS. The line traverses United States Postal Service Zip Codes 67070 and 67057.

KHP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

Where, as here, the carrier is abandoning its entire line, the Board does not normally impose labor protection under 49 U.S.C. 10502(g), unless the evidence indicates the existence of: (1) A corporate affiliate that will continue substantially similar rail operations; or (2) a corporate parent that will realize substantial financial benefits over and above relief from the burden of deficit operations by its subsidiary railroad. *See Wellsville, Addison & Galeton R. Corp.—Abandonment,* 354 I.C.C. 744 (1978); and *Northhampton and Bath R. Co.—Abandonment,* 354 I.C.C. 784 (1978). KHP proposes to abandon the entire line and go out of the railroad business. KHP does not appear to have a corporate affiliate or parent that could benefit from the proposed abandonment. Accordingly, labor protection conditions will not be imposed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 2, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 15, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 23, 2002, with: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to KHP's representative: Karl Morell, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

If the verified notice contains false or misleading information, the exemption is void ab *initio.*

KHP has filed an environmental report which addresses the effects, if any, of the abandonment and discontinuance on the environment and historic resources. SEA will issue an environmental assessment (EA) by

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1,100. *See* 49 CFR 1002.2(f)(25).

October 8, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), KHP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned its line. If consummation has not been effected by KHP's filing of a notice of consummation by October 3, 2003, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: September 25, 2002.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 02–25149 Filed 10–2–02; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

[Docket No. BTS–2001–11069]

Reports of Motor Carriers; Agency Decisions on Requests for Exemptions from Public Release

AGENCY: Bureau of Transportation Statistics (BTS), DOT.

ACTION: Notice of availability.

SUMMARY: This Notice announces BTS' decisions on 16 exemption requests filed by motor carriers. Class I and Class II for-hire motor carriers of property and household goods, with gross annual operating revenue of $3 million or more, are required to file annual reports with the BTS and Class I motor carriers must also file quarterly reports. As provided by statute, carriers may request that their reports be withheld from public release. On December 28, 2001, BTS published a Notice in the **Federal Register** (66 FR 67364) inviting comments on 44 exemption requests. BTS has reviewed the public comments and is issuing decisions in 16 of those exemption requests. These decisions are now available through the DOT Dockets Management System (DMS). You can read the decisions by following the instructions listed below.

In the near future, BTS expects to make decisions for the remaining exemption requests. The agency will publish another Notice when those decisions are available.

ADDRESSES: You can read the BTS decisions by visiting the DMS, in person, at the U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590–0001. The DMS is open for examination and copying, at the above address, from 9 a.m. to 5 p.m., Monday through Friday, except federal holidays.

If you may also view the decisions by using the Internet. The DOT DMS website is located at *http://dms.dot.gov*. Please follow the online instructions for viewing the decisions.

FOR FURTHER INFORMATION CONTACT: Russell B. Capelle, Jr., K–13, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–5685; fax: (202) 366–3364; e-mail: *russ.capelle@bts.gov* or Robert A. Monniere, K–2, Bureau of Transportation Statistics, 400 Seventh Street, SW., Washington, DC 20590–0001; (202) 366–5498; fax: (202) 366–3640; e-mail: *robert.monniere@bts.gov*.

Russell B. Capelle, Jr.,

Assistant BTS Director for Motor Carrier Information.

[FR Doc. 02–25184 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–FE–P

Corrections

Federal Register

Vol. 67, No. 192

Thursday, October 3, 2002

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Enzyme-Catalyzed Modifications of Macromolecules in Organic Solvents

Correction

In notice document 02–24532 appearing on page 61078 in the issue of Friday, September 27, 2002, make the following correction:

On page 61078, the first column, in the first line, under the **SUMMARY** section, in the first line, ''37b CFR'' should read ''37 CFR''.

[FR Doc. C2–24532 Filed 10–2–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement for the Florida Bay/Florida Keys Intergrated Feasibility Study

Correction

In notice document 02–24533 appearing on page 61080 in the issue of Friday, September 27, 2002, make the following correction:

On page 61080, in the first column, under the **FOR FURTHER INFORMATION CONTACT** section, in the last line, ''3592'' should read ''3582''.

[FR Doc. C2–24533 Filed 10–2–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 81

RIN 0920–ZA01

Guidelines for Determining the Probability of Causation Under the Energy Employees Occupational Illness Compensation Program Act of 2000; Final Rule

Correction

In rule document 02–10764 beginning on page 22296 in the issue of Thursday, May 2, 2002, make the following correction:

§ 81.25 [Corrected]

On page 22313, in the second column, in §81.25, the first line of Equation 1 is corrected to read as set forth below.

Calculate: $1-[\{1-PC_1\}\times\{1-PC_2\}\times$

. . .×

[FR Doc. C2–10764 Filed X–XX–02; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Correction

In notice document 02–23960 beginning on page 59297 in the issue of Friday, September 20, 2002, make the following correction:

On page 59297, in the third column, under the heading ''*Time:*'', ''7 a.m. to 4 p.m.'' should read, ''7 p.m. to 4 p.m.''.

[FR Doc. C2–23960 Filed 10–2–02; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
October 3, 2002

Part II

Department of Commerce

International Trade Administration

Antidumping and Countervailing Duty Orders for Various Countries; Notices

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–815]

Stainless Steel Sheet and Strip in Coils From France: Final Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: The Department is issuing the final results of the first administrative review of the countervailing duty order on stainless steel sheet and strip in coils from France for the period January 1, 2000, through December 31, 2000.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam at (202) 482–0176; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the ''Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department'') regulations are references to the provisions codified at 19 CFR part 351 (April 2001).

Case History

Since the publication of the preliminary results in the **Federal Register** (*see Stainless Steel Sheet and Strip in Coils from France: Preliminary Results of Countervailing Duty Administrative Review,* 67 FR 31774 (May 10, 2002) (''*Preliminary Results*'')), the following events have occurred:

On June 10 and 17, 2002, we received case briefs and rebuttals, respectively, from the petitioners and Usinor/the Government of France (''GOF''). No hearing was held because no party requested a hearing.

On September 12, 2002, we published a **Federal Register** notice extending the time limit for completion of these final results for 14 days until September 23, 2002. *See Stainless Steel Sheet and Strip in Coils from France: Notice of Extension of Time Limit for Countervailing Duty Administrative Review,* 67 FR 57793 (September 12, 2002).

Scope of Review

The products covered by this countervailing duty order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat-rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness, and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold-rolled, polished, aluminized, coated, etc.) provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise covered by this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (''HTSUS'') at the following subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80.

Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise under review is dispositive.

Excluded from the scope of this order are the following: (1) Sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled; (2) sheet and strip that is cut to length; (3) plate (*i.e.*, flat-rolled stainless steel products of a thickness of 4.75 mm or more); (4) flat wire (*i.e.*, cold-rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm); and (5) razor blade steel. Razor blade steel is a flat-rolled product of stainless steel, not further worked than cold-rolled (cold-reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

Also excluded from the scope of this order are:

Flapper Valve Steel: Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Suspension Foil: Suspension foil is a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus-or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection and flatness of 1.6 mm over 685 mm length.

Certain Stainless Steel Foil for Automotive Catalytic Converters: This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030

percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of less than 0.002 or greater than 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent Magnet Iron-chromium-cobalt Alloy Stainless Strip: This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.'' [1]

Certain Electrical Resistance Alloy Steel: This product is defined as a non-magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high-temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.'' [2]

Certain Martensitic Precipitation-hardenable Stainless Steel: This high-strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500-grade steel, and contains, by weight, 11 to 13 percent chromium and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.'' [3]

Three Specialty Stainless Steels Typically Used in Certain Industrial Blades and Surgical and Medical Instruments: These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to AISI grade 420 but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less, and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 Mo.'' [5] The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent, and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per 100 square microns. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no more than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.''

Period of Review

The period of review (''POR'') for which we are measuring subsidies is January 1, 2000, through December 31, 2000.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' from Susan H. Kuhbach, Senior Office Director, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 23, 2002 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as Appendix II is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading ''France.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Final Results of Review

In accordance with 19 CFR 351.221(b)(5), we calculated an individual subsidy rate for the producer/exporter subject to this administrative review. For the period January 1, 2000 through December 31, 2000, we determine the net subsidy rate for Usinor to be 1.90 percent *ad valorem*.

Due to the injunction issued December 22, 1999 by the U.S. Court of International Trade, we will not order liquidation of entries of stainless steel sheet and strip in coil from France at this time. Liquidation will occur at the rates described in this notice at such time as the injunction is lifted.

The cash deposit rates for all companies not covered by this review are not changed by the results of this review. Thus, we will instruct the United States Customs Service to continue to collect cash deposits for non-reviewed companies at the most recent rate applicable to the company. These rates shall apply to all non-reviewed companies until a review of the companies assigned these rates is completed. In addition, for the period January 1, 2000 through December 31, 2000, the assessment rates applicable to all non-reviewed companies covered by this order is the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

[1] ''Arnokrome III'' is a trade mark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

[5] ''GIN4 Mo,'' ''GIN5'' and ''GIN6'' are the proprietary grades of Hitachi Metals America, Ltd.

This administrative review and notice are in accordance with section 751(a)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—List of Comments and Issues in the Decision Memorandum

Comment 1: 1995 Capital Increase for Usinor
Comment 2: Characterization of Programs Providing No Benefit During the POR
Comment 3: Post-Privatization Treatment of Usinor's Pre-Privatization Benefits
Comment 4: Appropriate AUL for Usinor
Comment 5: ECSC Article 55 Benefits

[FR Doc. 02–24783 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–614–803]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from New Zealand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala at (202) 482–1784, or Tracy Levstik at (202) 482–2815, Office of AD/CVD Enforcement V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from New Zealand are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products From New Zealand,* 67 FR 31231 (May 9, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred. In July 2002, we gave interested parties an opportunity to comment on the preliminary determination. There were no case or rebuttal briefs submitted. A public hearing was not requested.[1]

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (Preliminary Scope Rulings), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners[2] and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in CRU.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Analysis of Comments Received

As noted above, we received no comments from interested parties in response to our preliminary determination.

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[1] Normally, when the Department issues a final determination, the **Federal Register** notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, a separate memorandum is not required.

[2] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

Facts Available

1. Application of Facts Available (FA)

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

On May, 16 2002, the sole respondent, BHP New Zealand Steel Limited (NZS) notified the Department that it did not intend to participate further in the Department's investigation and requested the return of all of its data. NZS was notified by the Department in all correspondence concerning the due dates for submitting data that failure to submit the requested information by the date specified may result in use of the FA, as required by section 776(c) of the Act and section 351.308 of the Department's regulations. See letters from the Department to NZS dated November 19, 2001; January 9, 2002; January 23, 2002; February 15, 2002; April 29, 2002; and April 30, 2002. Because NZS withheld information requested by the Department essential to the calculation of dumping margins, thereby significantly impeding the conduct of this proceeding, we have applied FA to calculate the dumping margin, pursuant to sections 776(a)(2)(A) and (C) of the Act.

2. Selection of Adverse Facts Available (AFA)

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808, 53819–20 (October 16, 1997). As a general matter, it is reasonable for the Department to assume that NZS possessed the records necessary for the Department to complete its investigation since it provided a nearly complete response before withdrawing it from the record. Therefore, by withdrawing the information the Department requested, NZS failed to cooperate to the best of its ability. As NZS failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act. As AFA, we have assigned a margin of 21.72 percent, the sole rate derived from the petition. *See Initiation Notice* at 54205.

3. Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (SAA) accompanying the URAA, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d). The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value (*see* SAA at 870).

The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation (*see* SAA at 870). In order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose. *See* New Zealand Initiation Checklist (Initiation Checklist) on file in the CRU, for a discussion of the margin calculation in the petition. In addition, in order to determine the probative value of the margin in the petition for use as AFA for purposes of this determination, we examined evidence supporting the calculation in the petition. In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margin in the petition was based.

Export Price

With respect to the margin in the petition, EP was based on average per-unit customs import value (AUV) data for one HTSUS category that accounted for a large portion of imports of subject merchandise from New Zealand during the period. The petitioners made no adjustments to EP because using an unadjusted AUV as the export price is a conservative methodology. Our review of the EP calculation indicated that the information in the petition has probative value, as the unadjusted AUV included in the margin calculation in the petition is from public sources and concurrent, for the most part, with the POI. Consequently, we consider EPs which are based on U.S. customs data corroborated. *See Certain Cut-to-Length Carbon Steel Plate from Mexico: Final Results of Antidumping Duty Administrative Review,* 64 FR 7684 (January 4, 1999) (Comment 13).

Normal Value

The petitioners calculated NV from price information obtained from foreign market research for grades and sizes of cold-rolled steel comparable to the products exported to the United States which serve as the basis for EP. The petitioners made no adjustment to NV. With regard to the NV contained in the petition, the Department has no useful information from the respondent or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. *See Initiation Checklist.* It is worth noting that the implementing regulation for section 776 of the Act states, ''(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using the secondary information in question.'' *See* 19 CFR 351.308(d). Additionally, the SAA at 870 specifically states that where ''corroboration may not be practicable in a given circumstance, the Department need not prove that the facts available are the best alternative information.'' Therefore, based on our efforts, described above, to corroborate

information contained in the petition, and in accordance with section 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this final determination. Accordingly, in selecting AFA with respect to NZS, the Department applied the petition rate of 21.72 percent.

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''All Others'' rate for exporters and producers not individually investigated. This provision contemplates that the Department may weight-average margins other than zero, *de minimis*, and FA margins to establish the ''All Others'' rate. Where the data do not permit weight-averaging such rates, the SAA, at 873, provides that we may use other reasonable methods. As noted above, there was only one estimated margin derived from the petition. Therefore, we applied that margin of 21.72 percent as the ''All Others'' rate. See, *e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products From Indonesia,* 66 FR 22163 (May 3, 2001).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of cold-rolled steel from New Zealand that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 (the date of publication of the *Preliminary Determination* in the **Federal Register**). Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period July 1, 2000, through June 30, 2001:

Manufacturer/exporter	Margin (percent)
BHP New Zealand Steel Limited (NZS)	21.72
All Others	21.72

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24784 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–849]

Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative countervailing duty determination.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Tipten Troidl at (202) 482–1767 or Darla Brown at (202) 482–2849, Office of AD/CVD Enforcement VI, Import Administration, U.S. Department of Commerce, Room 4012, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUMMARY: On March 4, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain cold-rolled carbon steel flat products (subject merchandise) from the Republic of Korea for the period of investigation (POI) calendar year 2000 (67 FR 9685).

The net subsidy rate in the final determination differs from that of the preliminary determination. The revised final net subsidy rate is listed below in the ''Suspension of Liquidation'' section of this notice.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Background

On March 4, 2002, the Department of Commerce (the Department) published in the **Federal Register** its preliminary affirmative determination in the countervailing duty investigation of certain cold-rolled carbon steel flat products from the Republic of Korea. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination with Final Antidumping Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea,* 67 FR 9685 (March 4, 2002) (*Preliminary Determination*). This investigation covers the POI calendar year 2000.

We invited interested parties to comment on the *Preliminary Determination.* We received both case briefs and rebuttal briefs from interested parties. A public hearing was held on August 27, 2002. All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (*Decision Memorandum*) dated September 23, 2002, which is hereby adopted by this notice.

With respect to scope, in the *Preliminary Determinations* in these cases, the Department preliminarily

excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, the North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the ''Scope of Investigation'' section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (POI) for which we are measuring subsidies is calendar year 2000.

Verification

As provided in section 782(i) of the Act, we conducted verification of the government responses from April 15 through 18, 2002. We also conducted verification of the responses of companies from April 17 through 25, 2002. We used standard verification procedures, including meeting with government and company officials and examining relevant accounting records and original source documents provided by the respondents. Our verification results are outlined in detail in the public versions of the verification reports, which are on file in the Central Records Unit of the Department of Commerce (Room B–099).

Analysis of Comments Received

A list of issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as Appendix I. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in room B–099 of the Main Commerce Building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov,* under the heading ''**Federal Register** Notices.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In accordance with section 705(c)(1)(B)(i)(I) of the Act, we have calculated individual rates for the companies under investigation. For the period calendar year 2000, we determine the net subsidy rates for the investigated companies to be as follows:

Producer/exporter	Net subsidy rate
Dongbu Steel Co., Ltd. (Dongbu)	1.09 percent *ad valorem*
Hyundai Hysco (Hysco)	0.36 percent *ad valorem*
Pohang Iron & Steel Co., Ltd. (POSCO)	0.76 percent *ad valorem*
Union Steel Manufacturing Co., Ltd. (Union)	3.43 percent *ad valorem*
All Others Rate	1.09 percent *ad valorem*

In accordance with our preliminary affirmative determination, we instructed the U.S. Customs Service to suspend liquidation of all entries of certain cold-rolled carbon steel flat products from Korea, which were entered or withdrawn from warehouse, for consumption on or after March 4, 2002, the date of the publication of our preliminary determination in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed the U.S. Customs Service to discontinue the suspension of liquidation for merchandise entered on or after July 2, 2002, but to continue the suspension of liquidation of entries made between March 4, 2002 and July 1, 2002.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided that the ITC confirms that it will not disclose such information, either publically or under an administrative protective order (APO), without the written consent of the Assistant Secretary for Import Administration.

If the ITC determines that material injury, or threat of material injury, does not exist, these proceedings will be terminated. If however, the ITC determines that such injury does exist, we will issue a countervailing duty order.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

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Comment 9: Provision of Land at Asan Bay: Land Price and Benchmark
Comment 10: Provision of Land at Asan Bay: Fees Waived
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[FR Doc. 02–24785 Filed 10–2–02; 8:45 am]
BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–839]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Magd Zalok at (202) 482–4162, or Martin Claessens at (202) 482–5451, Office of AD/CVD Enforcement V, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2002).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Taiwan are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from Taiwan,* 67 FR 31255 (May 9, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred. In May and June 2002, the Department verified the responses submitted by the sole participating respondent in this investigation, China Steel Corporation (CSC) and Yieh Loong Enterprise Co., Ltd (YL) (collectively CSC/YL). On August 29, 2002, we received case briefs from the petitioners [1] and CSC/YL. On September 4, 2002, we received rebuttal briefs from the petitioners and the respondent. A public hearing was not requested.

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan,

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporaiton (collectively, the petitioners).

Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the *Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,* dated July 10, 2002, which is on file in CRU.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the respondent. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the appendix to this notice and addressed in the *Issues and Decision Memorandum* (*Decision Memorandum*) dated September 23, 2002, which is hereby adopted by this notice. The *Decision Memorandum* is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/*. The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments in calculating the final dumping margin in this proceeding. These adjustments to the dumping margin are discussed in the *Decision Memorandum* for this investigation.

Use of Facts Available

In the *Preliminary Determination,* the Department applied total adverse facts available to the mandatory respondents, Kao Hsing Chang Iron & Steel Corporation (Kao Hsing), and Ton Yi Industrial Corporation (Ton Yi) because these two respondents failed to respond to the Department's questionnaire and instead chose not to participate in the investigation. As a result, the Department assigned Kao Hsing and Ton Yi the rate of 16.80 percent, the highest rate derived from the petition. *See Initiation Notice.* The interested parties did not object to the use of adverse facts available, or to the Department's choice of facts available. For this final determination, we are continuing to apply the same margin based on total adverse facts available to Kao Hsing and Ton Yi.

Critical Circumstances

In its preliminary determination of this investigation, the Department found that there was no history of dumping and material injury for cold-rolled steel imports from Taiwan. The Department also determined that the threshold to impute importer knowledge of sales at LTFV (*i.e.*, an antidumping margin of 25 percent or more for EP sales) was not met due to the fact that: (a) The preliminary margin calculated for CSC/YL was 3.15 percent; (b) the margin relied upon for the initiation of this investigation, and assigned to the non-responding companies (*i.e.*, Kao Hsing and Ton Yi), as adverse facts available, was 16.80 percent, which was based on an analysis conducted by the petitioners with the understanding that cold-rolled steel from Taiwan is sold to unaffiliated trading companies for export to the United States; and (c) it is the Department's practice to conduct its critical circumstances analysis of companies in the ''All Others'' category based on the experience of the investigated companies. Therefore, the Department assigned the ''All Others'' category the same rate as was calculated for CSC/YL.

Given that Taiwan had no history of dumping, and that the threshold to impute importer knowledge of sales at LTFV was not met, the Department preliminarily found no critical circumstances for Taiwan in this investigation. For further details, *see Preliminary Determination.*

Since the preliminary determination, we received no comments from the petitioners or the respondent regarding our preliminary finding that critical circumstances do not exist for imports of cold-rolled steel from Taiwan. Moreover, the margin calculated for CSC/YL for purposes of the final determination of this investigation continues to be less than 25 percent, the threshold for imputing knowledge of sales at LTFV. Therefore, we have not changed our determination and continue to find that critical circumstances do not exist for imports of cold-rolled steel from Taiwan.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of cold-rolled steel from Taiwan that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 (the date of publication of the preliminary determination in the **Federal Register**). Customs shall

continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for Taiwan:

Manufacturer/exporter	Margin (percent)
China Steel Corp./Yieh Loong ..	4.02
Kao Hsing Chang Iron & Steel	16.80
Ton Yi Industrial	16.80
All Others	4.02

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues Covered in Decision Memorandum

I. Issues Specific to Sales
Comment 1: Leeway Sales
Comment 2: Model Match Criteria
I. Issues Specific to Costs
Comment 3: Product-specific Costs
Comment 4: Scrap and By-Product Offset
Comment 5: Interest Expense
Comment 6: G&A Expense

[FR Doc. 02–24786 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–357–817]

Final Negative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final negative determination in a countervailing duty investigation.

SUMMARY: The Department of Commerce (''the Department'') has made a final determination that countervailable subsidies are not being provided to producers and exporters of certain cold-rolled carbon steel flat products from Argentina.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam, Andrew McAllister, or Jesse Cortes at (202) 482–0176, (202) 482–1174, or (202) 482–3986, respectively; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the ''Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department'') regulations are references to the provisions codified at 19 CFR part 351 (April 2001).

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corp., United States Steel LLC., LTV Steel Co., Inc., Steel Dynamics, Inc., National Steel Corp., Nucor Corp., WCI Steel, Inc., and Weirton Steel Corp. (collectively, ''the petitioners'').

Case History

Since the publication of the preliminary determination in the **Federal Register** (*see Notice of Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 9670 (March 4, 2002) (''*Preliminary Determination*'')), the following events have occurred:

From March 18, 2002 to March 23, 2002, we conducted a verification of the questionnaire responses submitted by the Government of Argentina (''GOA'') and Siderar Sociedad Anonima Industrial Y Comercial (''Siderar'').

On June 21 and 28, 2002, we received case and rebuttal briefs, respectively, from the petitioners and Siderar/GOA. On July 2, 2002, we held a public hearing at the request of the petitioners with respect to issues specific to this investigation.

With respect to scope, in the preliminary LTFV determinations in the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181, 31192 (May 9, 2002). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* Memorandum to Bernard T. Carreau, dated June 13, 2002, ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (''CRU''), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the *Preliminary Scope Rulings,* and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In

addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the ''Scope of Investigation'' section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the ''Scope Appendix'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* Memorandum to Bernard T. Carreau, dated July 10, 2002, ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' which is on file in the CRU.

Injury Test

Because Argentina is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from Argentina materially injure, or threaten material injury to, a U.S. industry. On November 19, 2001, the ITC published its preliminary determination finding a reasonable indication of material injury or threat of material injury to an industry in the United States by reason of imports of certain cold-rolled carbon steel flat products from Argentina. *See Certain Cold-Rolled Steel Products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, Netherlands, New Zealand, Russia, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 57985 (November 19, 2001).

Period of Investigation

The period of investigation (''POI'') for which we are measuring subsidies corresponds to Siderar's fiscal year, July 1, 2000 through June 30, 2001.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' from Richard W. Moreland, Deputy Assistant Secretary, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 23, 2002 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum.* Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading ''Argentina.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In the *Preliminary Determination,* the total net countervailable subsidy rate was *de minimis* and, therefore, we did not suspend liquidation. For the instant determination, because the rate remains *de minimis*, we are not directing the Customs Service to suspend liquidation of certain cold-rolled carbon steel flat products from Argentina.

Notification of the International Trade Commission

In accordance with section 705(d) of the Act, we have notified the International Trade Commission of our determination.

Return or Destruction of Proprietary Information

This notice will serve as the only reminder to parties subject to Administrative Protective Order of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—List of Comments and Issues in the Decision Memorandum

Comment 1: Appropriate AUL for Siderar
Comment 2: Application of the ''Same Person'' Test
Comment 3: Specificity of Benefits Conferred During Privatization Process
Comment 4: Reintegro
Comment 5: Committed Investment
Comment 6: Equity Infusions
Comment 7: Exemption from Value Added Tax on Transfer of Assets
Comment 8: Exemption from Stamp Tax
Comment 9: Assumption of Voluntary Retirement/Severance Liabilities
Comment 10: Assumption of Environmental Liabilities
Comment 11: Appropriate Discount Rate for Non-Recurring Subsidies

[FR Doc. 02–24787 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–872]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of the final determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the People's Republic of China.

SUMMARY: The Department of Commerce is issuing its final determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the People's Republic of China.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy at (202) 482–0409 or James Doyle at (202) 482–0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute, are references to the provisions effective January 1, 1995, the effective date of the amendments

made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold rolled steel) from the People's Republic of China (the PRC) are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Continuation of Suspension of Liquidation section of this notice.

Case History

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the People's Republic of China,* 67 FR 31235 (May 9, 2002) (*Preliminary Determination*). This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the preliminary determination, the following events have occurred. On May 7, 2002, pursuant to 19 CFR 351.224(c)(1) and (2), Pangang Economic and Trading Group Corporation (Pangang) requested that the Department correct alleged ministerial errors in its preliminary calculations of the margin for Pangang. Of the three errors alleged, the Department determined that only one of them constituted a ministerial error. *See Memorandum to Edward Yang: Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from the People's Republic of China: Analysis of Allegation of Ministerial Errors,* dated May 17, 2002 (Ministerial Error Memo). Specifically, the Department found that it had overstated selling, general, and administrative expenses (SG&A) by including depreciation. *See id.* at 2. However, the Department did not find that the error constituted a significant ministerial error as defined under section 351.224(g), and stated that the error would be addressed in the final determination. *See id.* at 3.

On May 13, 2002, we received a joint request from the Chinese government and Pangang proposing a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On June 26, 2002, the Department met with representatives of Pangang to discuss the proposed suspension agreement.

On May 20, 2002, Pangang submitted certain corrections and clarifications to Pangang's U.S. sales and factors of production data. The Department conducted a verification of Pangang's sales and factors of production data at Pangang's headquarters in Panzhihua, PRC, from May 27, 2002 through May 31, 2002. *See Verification of Sales and Factors of Production for Pangang Economic and Trading Group Corporation (''Pangang'') in the Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from the People's Republic of China (''PRC'')* (June 26, 2002).

On May 30, 2002, Pangang requested that the Department postpone its final determination in the investigation until 135 days after the date of the publication of the preliminary determination in the **Federal Register**. In addition, in accordance with 19 CFR 351.210(e)(2) Pangang requested that the Department extend the application of the provisional measures prescribed under section 733(d) of the Act to not more than six months. On June 20, 2002, the Department postponed the final determination until September 23, 2002. *See Notice of Postponement of Final Antidumping Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From the People's Republic of China,* 67 FR 41954 (June 20, 2002).

On July 2, 2002, Pangang submitted comments and publicly available information from surrogate countries for the Department's consideration when valuing factors of production.

We gave interested parties an opportunity to comment on the preliminary determination. On July 12, 2002, petitioners and Pangang submitted case briefs with respect to the sales and factors of production verification and the Department's *Preliminary Determination.* Petitioners and Pangang submitted rebuttal briefs on July 18, 2002.

Scope of Investigation

With respect to scope, in the preliminary LTFV determinations in all of the cold-rolled steel investigation cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*:). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the following paragraph.

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain*

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corp., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

Cold-Rolled Carbon Steel Flat Products from Australia, 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (POI) is January 1, 2001, through June 30, 2001. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, September 2001).

Final Critical Circumstances Determination

On November 29, 2001, and December 7, 2001, four of the petitioners in the investigation (Nucor Corporation, Steel Dynamics, Inc., WCI Steel, Inc., and Weirton Steel Company) submitted an allegation of critical circumstances with respect to imports of cold-rolled steel from Russia and requested an expedited decision in the matter. On April 10, 2002, the Department issued its preliminary affirmative determination that critical circumstances exist with respect to imports of cold-rolled steel from the PRC. *See Memorandum to Faryar Shirzad from Joseph A. Spetrini: Preliminary Affirmative Determinations of Critical Circumstances* (April 10, 2002); and *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation,* 67 FR 19157 (April 18, 2002) (*Critical Circumstances Notice*). We received no comments regarding our preliminary finding that critical circumstances exist for imports of cold-rolled steel from the PRC and the final dumping margins are sufficient to impute importer knowledge of dumping. Therefore, we have not changed our determination and continue to find that critical circumstances exist for imports of cold-rolled steel from the PRC.

Nonmarket Economy Country Status

The Department has treated the PRC as a nonmarket economy (NME) country in all past antidumping investigations. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Carbon-Quality Steel Pipe from the People's Republic of China,* 67 FR 36570, 36571 (May 24, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from the People's Republic of China,* 67 FR 35479, 35480 (May 20, 2002); *Notice of Final Determination of Sales at Less Than Fair Value: Folding Metal Tables and Chairs from the People's Republic of China,* 67 FR 20090, 20091 (April 24, 2002). This NME designation remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. No party has sought revocation of the NME status in this investigation. Therefore, in accordance with section 771(18)(C) of the Act, we will continue to treat the PRC as a NME country for purposes of this investigation.

Separate Rates

In our preliminary determination, we found that Pangang had met the criteria for the application of a separate antidumping duty rate. For a more detailed discussion, *see* the Department's *Preliminary Determination.*

PRC-Wide Rate and Adverse Facts Available

In NME cases, it is the Department's policy to assume that all exporters located in the NME comprise a single exporter under common control, the ''NME entity.'' This presumption can be rebutted. The Department assigns a single NME rate to the NME entity unless an exporter can demonstrate eligibility for a separate rate. As explained above, only Pangang received a separate rate. For the reasons set forth in the *Preliminary Determination,* we continue to find that the use of adverse facts available for the calculation of the PRC-wide rate is appropriate. *See* the *Preliminary Determination* for further discussion of this topic.

In our *Preliminary Determination,* as adverse facts available, we used the highest rate calculated for a respondent, *i.e.*, the rate calculated for Pangang. As explained below, in our final determination we have applied as adverse facts available for Pangang the calculated margin for Pangang from the *Preliminary Determination,* adjusted for a clerical error and certain corrected data (105.35 percent). For our final determination, we have also applied this rate to the PRC-wide entity.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by Pangang for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by Pangang.

Analysis of Comments Received

As noted below, the Department has determined to apply total adverse facts available for the one participating respondent, Pangang, and to the PRC-wide entity. The Department finds it unnecessary to address the comments raised by the parties that do not pertain to the Department's total adverse facts available decision.

The Department recognizes that the respondent, Pangang, raised the following issues: (1) U.S. Sales through Third Parties; (2) Self-Produced Energy and Gas Factors; (3) Valuation of Oxygen, Nitrogen, and Argon; (4) Valuation of Electricity; (5) Valuation of Iron Ore; (6) Valuation of Aluminum; (7) Valuation of Steam Coal; (8) Valuation of SG&A, Interest and Profit; (9); Inland Freight Distance; and (10) SG&A Ratio Clerical Errors. However, based on our determination to use total adverse facts available, the Department finds it unnecessary to address these comments.

The Department recognizes that petitioners raised the following issues: (1) U.S. Sales through Third Parties; (2) Valuation of Oxygen, Nitrogen, and Argon; (3) Valuation of Hydrogen Gas; (4) Treatment of Defective Hot-Rolled Sheets; (5) Valuation of Iron Ore; (6) Valuation of Aluminum; (7) Valuation of Electricity; (8) Valuation of Coal Used to Produce Coke; (9) Valuation of Water; (10) Valuation of Recycled Iron Angle; and (11) Valuation of SG&A, Interest and Profit. However, based on our determination to use total adverse facts available, the Department finds it unnecessary to address these comments.

All issues raised in the case and rebuttal briefs to this investigation pertaining to total adverse facts available are addressed in the *Issues and Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary* (September 23, 2002) (*Decision Memorandum*), which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, and other issues addressed, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues

raised in this investigation and the corresponding recommendations in the *Decision Memorandum,* a public memorandum which is on file at the U.S. Department of Commerce, in the Central Records Unit, in room B–099. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

We have adjusted the calculation methodology used in the *Preliminary Determination* to correct for a clerical error and certain corrected data. *See Analysis for the Final Determination of Cold-Rolled Carbon Steel Flat Products from the People's Republic of China: Pangang Group International Economic & Trading Corp.,* dated September 23, 2002.

Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline for submission of the information, or in the form and manner requested, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

During verification the Department discovered that Pangang failed to report a significant percentage of its U.S. sales volume of subject merchandise during the POI. This sales volume accounts for a substantial percentage of Pangang's U.S. sales volume of subject merchandise during the POI. Thus, we find that Pangang withheld information requested by the Department, and have applied facts available pursuant to section 776(a)(2) of the Act. Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may draw an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. In light of the circumstances surrounding Pangang's failure to report a substantial portion of its U.S. sales volume, we determine that Pangang has failed to cooperate to the best of its ability and have applied adverse facts available to Pangang. For a complete discussion of our analysis, see the *Decision Memorandum* and memorandum *Determination of Facts Available for Pangang Economic and Trading Group Corporation in Certain Cold-Rolled Carbon Steel Flat Products from the People's Republic of China,* dated September 23, 2002.

Suspension Agreement

As discussed above under ''Background,'' on May 13, 2002, we received a joint request from the Chinese government and Pangang proposing a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On June 26, 2002, the Department met with representatives of Pangang to discuss the proposed suspension agreement. No agreement was concluded.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the U.S. Customs Service (Customs) to continue to suspend liquidation of all imports of subject merchandise entered, or withdrawn from warehouse, for consumption on or after 90 days prior to the May 9, 2002 (date the date of publication of the *Preliminary Determination* in the **Federal Register**). We will instruct Customs to continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the NV exceeds the EP, as indicated below. These suspension of liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

COLD-ROLLED CARBON STEEL FLAT PRODUCTS

Producer/manufacturer/exporter	Weighted-average margin (percent)
Pangang	105.35
PRC-Wide Rate	105.35

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I

Comment 1: Application of Adverse Facts Available
Comment 2: U.S. Sales through Third Parties
Comment 3: Self-Produced Energy and Gas Factors
Comment 4: Valuation of Oxygen, Nitrogen, and Argon
Comment 5: Valuation of Electricity
Comment 6: Valuation of Hydrogen Gas
Comment 7: Treatment of Defective Hot-Rolled Sheets
Comment 8: Valuation of Iron Ore
Comment 9: Valuation of Aluminum
Comment 10: Valuation of Coal Used to Produce Coke
Comment 11: Valuation of Steam Coal
Comment 12: Valuation of Water
Comment 13: Valuation of Recycled Iron Angle
Comment 14: Valuation of SG&A, Interest and Profit
Comment 15: Inland Freight Distance

Comment 16: SG&A Ratio Clerical Errors

[FR Doc. 02–24788 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–427–823]

Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final affirmative determination in a countervailing duty investigation.

SUMMARY: The Department of Commerce has made a final determination that countervailable subsidies are being provided to certain producers and exporters of certain cold-rolled carbon steel flat products from France. For information on the estimated countervailing duty rates, please see the ''Suspension of Liquidation'' section, below.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam at (202) 482–0176; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the ''Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the ''Department'') regulations are references to the provisions codified at 19 CFR part 351 (April 2001).

Petitioners

The petition in this investigation was filed by Bethlehem Steel Corp., United States Steel LLC., LTV Steel Co., Inc., Steel Dynamics, Inc., National Steel Corp., Nucor Corp., WCI Steel, Inc., and Weirton Steel Corp. (collectively, ''the petitioners'').

Case History

Since the publication of the preliminary determination in the **Federal Register** (*see Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products from France,* 67 FR 9662 (March 4, 2002) (''*Preliminary Determination*'')), the following events have occurred:

From April 15, 2002 to April 19, 2002, we conducted a verification of the questionnaire responses submitted by the Government of France (''GOF'') and Usinor.

On May 24 and 31, 2002, we received case briefs and rebuttals, respectively, from the petitioners and Usinor/GOF. On June 4, 2002, we held a public hearing at the request of both the petitioners and Usinor/GOF.

With respect to scope, in the preliminary LTFV determinations in the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181, 31192 (May 9, 2002). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* Memorandum to Bernard T. Carreau, dated June 13, 2002, '' Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (''CRU''), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the *Preliminary Scope Rulings,* and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the ''Scope of Investigation'' section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the ''Scope Appendix'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* Memorandum to Bernard T. Carreau, dated July 10, 2002, ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' which is on file in the CRU.

Injury Test

Because France is a ''Subsidies Agreement Country'' within the meaning of section 701(b) of the Act, the U.S. International Trade Commission (''ITC'') is required to determine whether imports of the subject merchandise from France materially injure, or threaten material injury to, a U.S. industry. On November 19, 2001, the ITC published its preliminary determination finding a reasonable indication of material injury or threat of material injury to an industry in the United States by reason of imports of certain cold-rolled carbon steel flat products from France. *See Certain Cold-Rolled Steel Products from Argentina, Australia, Belgium, Brazil, China, France, Germany, India, Japan, Korea, Netherlands, New Zealand, Russia, South Africa, Spain Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 57985 (November 19, 2001).

Period of Investigation

The period of investigation for which we are measuring subsidies is the calendar year 2000.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' from Susan H. Kuhbach, Senior Office Director, Import Administration to Faryar Shirzad, Assistant Secretary, Import Administration, dated September 23, 2002 (''*Decision Memorandum*''), which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum.* Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the CRU, room B–099 of the main Department building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading ''France.'' The paper copy and electronic version of the Decision Memorandum are identical in content.

Suspension of Liquidation

As a result of our *Preliminary Determination,* we instructed the Customs Service to suspend liquidation of all entries of certain cold-rolled carbon steel flat products from France which were entered or withdrawn from warehouse, for consumption on or after March 4, 2002, the date of the publication of the *Preliminary Determination* in the **Federal Register**. In accordance with section 703(d) of the Act, we instructed Customs to discontinue the suspension of liquidation for merchandise for countervailing duty purposes entered on or after July 2, 2002, but to continue the suspension of liquidation of entries made from March 4, 2001 through July 1, 2001.

We have calculated an individual net subsidy rate for each manufacturer of the subject merchandise pursuant to section 705(c)(1)(B)(i) of the Act. In accordance with sections 777A(e)(2)(B) and 705(c)(5)(A) of the Act, we have set the ''all others'' rate as Usinor's rate. We determine the total estimated net countervailable subsidy rates to be:

Producer/exporter	Net subsidy rate (percent)
Usinor	1.27
All Others	1.27

We will issue a countervailing duty order and reinstate the suspension of liquidation under section 706(a) of the Act if the ITC issues a final affirmative injury determination and will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amounts indicated above. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order (''APO''), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—List of Comments and Issues in the Decision Memorandum

Comment 1: Post-Privatization Treatment of Usinor's Pre-Privatization Benefits
Comment 2: Appropriate AUL for Usinor
Comment 3: SODI Advances
Comment 4: Funding for Electric Arc Furnace and Myosotis Projects
Comment 5: ECSC Article 56 Funding
Comment 6: Appropriate Sales Value
Comment 7: 1995 Capital Increase
Comment 8: ECSC Article 55 Benefits and Professional Training Grant

[FR Doc. 02–24789 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–421–810]

Notice of Final Determination of Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From The Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: David Salkeld or Jim Neel, AD/CVD Enforcement Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–1168 or (202) 482–4161, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to Department of Commerce (''the Department'') regulations refer to the regulations codified at 19 CFR part 351 (2002).

Final Determination

We determine that certain cold-rolled carbon steel flat products from The Netherlands are being sold, or are likely to be sold, in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the Continuation of Suspension of Liquidation section of this notice.

Case History

The preliminary determination in this investigation was published on May 9, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Netherlands,* 67 FR 31268 (May 9, 2002). Since the issuance of the preliminary determination, the following events have occurred:

On May 1, 2002, Corus Staal BV (''CSBV''), the sole respondent in the investigation, and the largest exporter/producer of imports during the period of investigation requested that the Department postpone the final determination to 135 days after the publication of the preliminary determination and requested that the Department extend the provisional measures period from four months to a period not longer than six months. Pursuant to section 733(b) of the Act, on June 19, 2002, the Department postponed the final determination until no later than September 23, 2002 (*i.e.* 135 days after publication of the preliminary determination). *See Certain Cold-Rolled Carbon Steel Flat Products from The Netherlands: Postponement of Final Determination of Sales at Less Than Fair Value,* 67 FR 43280 (June 27, 2002).

In May and June 2002, the Department verified the responses submitted by the respondent in this investigation, CSBV and its affiliates Corus Steel USA, Inc. (''CSUSA''), Rafferty-Brown Inc. of Connecticut (''RBC'') and Rafferty-Brown Inc. of North Carolina (''RBN''). CSBV and CSUSA are collectively referred to as ''Corus.'' Verification reports were issued in July 2002. Public versions of these reports, and all other Departmental memoranda referred to herein, are on file in the Central Records Unit, room B–099 of the main Commerce building. On May 20, 2002, petitioner Nucor Corporation requested a public hearing. On August 9, 2002, we received case briefs from the petitioners [1] and the respondent. On August 16, 2002, we received rebuttal briefs from the petitioners and the respondent. On August 27, 2002, petitioner Nucor Corporation withdrew its request for a public hearing and asked that the hearing be cancelled. The hearing scheduled for September 5, 2002, was cancelled on September 3, 2002.

With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination).* On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the ''Scope of Investigation'' section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (POI) is July 1, 2000 through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the respondent. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the appendix to this notice and addressed in the *Issues and Decision Memorandum from Holly A. Kuga to Faryar Shirzad RE: the Antidumping Duty (''AD'') Investigation of Certain Cold-Rolled Carbon Steel Flat Products from The Netherlands, (''Decision Memorandum''*), dated September 23, 2002, which is on file in room B–099 of the main Department of Commerce building, and which is hereby adopted. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/.* The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination in calculating the final dumping margin in this proceeding. These adjustments are discussed in the *Decision Memorandum* for this investigation, and include:

—Excusing Corus from reporting downstream sales by its bankrupt affiliate GalvPro;

[1] The active petitioners for this investigation are Bethlehem Steel Corporation, National Steel Corporation, Nucor Corporation, and United States Steel LLC (collectively, the petitioners). LTV is no longer an active participant in this investigation. *See* Letter from Skadden, Arps, Sltate, Meagher & Flom LLP (February 1, 2002). Effective January 1, 2002, the party previously known as ''United States Steel LLC'' changed its name to ''United States Steel Corporation.''

—Excluding Corus' sales to its affiliate GalvPro from the U.S. sales database;
—Adding RBC galvanizing costs to the further manufacturing field;
—Calculating a revised bad debt expense for CSBV;
—Correcting clerical errors identified at verification;
—Revising the VCOM field in the cost of production and constructed value calculations;
—Revising further manufacturing general and administrative (''G&A'') expenses; and
—Calculating a separate G&A rate for each further manufacturing company.

Use of Facts Available

For a discussion of our application of facts available, see the ''Facts Available'' section of the *Decision Memorandum,* which is on file in B–099 and available on the Web at ia.ita.doc.gov/frn/frnhome.

Critical Circumstances

Section 733(e)(1) of the Act provides that if a petitioner alleges critical circumstances, the Department will determine, on the basis of the information available at the time, whether there is a reasonable basis to believe or suspect that (i) there is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew, or should have known that the exporter was selling the subject merchandise at LTFV and that there would be material injury by reason of such sales (see 733(e)(1)(A)(i) and (ii)), and there have been massive imports of the subject merchandise over a relatively short period (section 733(e)(1)(B).

In the *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation,* 67 FR 19157 (April 18, 2002), we preliminarily found that both criteria for critical circumstances, *i.e.*, a history of injurious dumping and massive imports of subject merchandise, exist. For the reasons discussed in the *Decision Memorandum,* we continue to find that critical circumstances exist in this final determination pursuant to section 735(a)(3) of the Act.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of certain cold-rolled carbon steel flat products from The Netherlands that are entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days prior to the date of publication of the preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for The Netherlands:

Manufacturer/exporter	Margin (percent)
Corus Staal BV	6.28
All Others	6.28

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determinations. The ITC will determine, within 45 days, whether imports of subject merchandise from the Netherlands are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue antidumping orders directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shizad,

Assistant Secretary for Import Administration.

Appendix—Issues Covered in Decision Memorandum

Sales Issues

1. Excusing Corus from reporting downstream sales by its bankrupt affiliate GalvPro, LP (''GalvPro'')
2. Missing payment dates for certain U.S. sales
3. Rafferty-Brown Inc. of Connecticut (''RBC'') galvanizing costs
4. Scrap Recovery Offset to U.S. warranty expenses
5. Applying adverse facts available to calculate Corus' less than fair value (''LTFV'') margins
6. Sufficiency of petition to provide the basis for initiation
7. Classifying Corus' U.S. sales as export price (''EP'') sales or constructed export price (''CEP'') sales
8. CEP offset
9. Whether GalvPro's unpaid sales should be treated as a bad debt expense
10. Critical circumstances
11. ''Zeroing'' methodology
12. Clerical error in the margin program
13. Clerical Errors Identified at Verification
14. Variable Cost of Manufacture (''VCOM'') Calculation

Cost Issues

15. Non-Prime Offset to Standard Costs
16. General and Administrative (''G&A'') Expenses
17. Corporate Rationalization Charges—G&A Expenses
18. Extraordinary Charges—G&A Expenses
19. Further-Manufacturing Overhead
20. Further-Manufacturing G&A Expenses
21. Inter-company Charges—Further-Manufacturing G&A Expenses
22. Corporate Rationalization versus Group G&A—Further-Manufacturing G&A Expenses

[FR Doc. 02–24790 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–822]

Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From France

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Angelica Mendoza, John Drury or Abdelali Elouaradia at (202) 482–3019, (202) 482–0195 and (202) 482–1374, respectively; AD/CVD Enforcement,

Office 8, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from France are being sold, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

On May 4, 2001, the Department issued its negative preliminary determination in this proceeding. See Notice of Preliminary Determination of Sales at Not Less than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from France, 67 FR 31204 (May 9, 2002) (Preliminary Determination). That preliminary determination covered the following manufacturer/exporter, Usinor Group (Usinor). Since the publication of the Preliminary Determination the following events have occurred.

On May 21, 2002, the Department published in the **Federal Register** its amended preliminary determination. See Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from France, 67 FR 37387 (May 29, 2002) (Amended Prelim).

On May 23, 2002, Usinor requested that the Department postpone its final determination until not later than 135 days after the date of the publication of the preliminary determination in the **Federal Register** and requested an extension of the provisional measures. On June 6, 2002, we extended the final determination until not later than 135 days after the publication of the preliminary determination in the **Federal Register**. See Notice of Postponement of Final Determination of Antidumping Duty Investigation: Certain Cold-Rolled Carbon Steel Flat Products from France, 67 FR 40911–01 (June 14, 2002).

The Department verified sections A and B of Usinor's responses from May 13, 2002, through May 24, 2002, at Usinor's facilities in Florange (for Sollac Atlantique S.A., Sollac Lorraine, S.A., and Usinor Packaging, S.A.), Montataire (Société Lorraine de Produits Metallurgiques (SLPM)), and Rheims, France (Produits d'Usines Metallurgiques (PUM)). From June 17, 2002, through June 19, 2002, the Department verified section C of Usinor's responses at Usinor Steel Corporation, Inc.'s (USC), its U.S. affiliate, headquarters in New York, New York. The Department also verified section D of Usinor's responses from June 19, 2002, through June 28, 2002, at Usinor's facilities in Florange, France. See Memorandum For the File; ''Home Market Sales Verification of Section B Questionnaire Responses Submitted by Usinor in the Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products,'' July 25, 2002 (Verification Report), to Richard Weible, Director, Office 8; ''United States Sales Verification of Section C Questionnaire Responses Submitted by Usinor in the Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from France,'' July 24, 2002 (U.S. Verification Report), to Neal M. Halper, Director, Office of Accounting; ''Verification Report on the Cost of Production and Constructed Value Data Submitted by Usinor,'' July 17, 2002 (Cost Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in the Central Records Unit, room B–099 of the main Commerce building.

On May 20, 2002, one of the petitioners (Nucor Corporation) requested a public hearing in this investigation. The remaining petitioners (Bethlehem Steel Corporation, National Steel Corporation, United States Steel Corporation, Steel Dynamics, Inc., WCI Steel, Inc., and Weirton Steel Corporation) requested a public hearing on June 10, 2002. We did not receive a request for hearing from Usinor. On August 9, 2002, the petitioner which first requested a public hearing withdrew its request for a public hearing. On August 12, 2002, the remaining petitioners withdrew their request for a public hearing. On August 7, 2002, we received case briefs from Usinor and petitioners. We received rebuttal briefs from all parties on August 12, 2002.

With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina, 67 FR 31181 (May 9, 2002) (Scope Appendix—Argentina Preliminary LTFV Determination). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (Preliminary Scope Rulings), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the Preliminary Scope Rulings on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the ''Scope of Investigation'' section below.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import

Administration, dated September 23, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099.

In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://www.ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia, 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the Preliminary Scope Rulings, see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations. These changes are noted in various sections of the Decision Memorandum, accessible in B–099 and on the Web at *http://www.ia.ita.doc.gov/frn.*

Use of Facts Available

In accordance with section 776 of the Act, we have determined that the use of facts available is appropriate for certain portions of our analysis of Usinor. For a discussion of our determination with respect to these matters, see the Decision Memorandum.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, for Usinor, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from France that are entered, or withdrawn from warehouses, for consumption on or after May 29, 2002, the date of publication of the Amended Preliminary Determination in the **Federal Register**. The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This suspension-of-liquidation instruction will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for the period July 1, 2000, through June 30, 2002:

Manufacturer/exporter	Margin (percent)
Usinor Group	11.59
All Others	11.59

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memorandum

1. Downstream Sales to Affiliated Parties
2. Collapsing of Downstream Producers
3. ''Exempted'' Steel Service Centers that Failed the Arm's-Length Test
4. Constructed Export Price (CEP) Offset
5. CEP Profit
6. Home Market Indirect Selling Expenses
7. Home Market Credit Expense
8. Home Market Credit Expense for Sales by SLPM
9. Home Market Inventory Carrying Cost
10. Home Market Movement Expenses
11. Home Market Warranty Expense
12. Home Market Adjustment to Normal Value
13. Commissions Paid to Affiliated Parties
14. Inland Freight to Warehouse Expense for Sales by SLPM
15. U.S. Indirect Selling Expense
16. USC's Accounts Receivables Securitization Program
17. U.S. Credit Expense Calculation
18. U.S. Movement Expenses
19. U.S. Sales Not Previously Reported
20. U.S. Sales of ''Non-Prime'' Merchandise
21. Weighted-Average Margin Calculation—Zeroing Negative Margins
22. Unreconcilable Differences
23. By-Product Offset
24. Rail Rental Revenues
25. Major Input Rule—Sales to Affiliated Resellers
26. Major Input Rule—Usinor Purchases from Affiliates
27. Disregarded Transactions
28. Miscellaneous Selling, General and Administrative (SG&A) Related Accruals and Provisions
29. SG&A Expenses—Accelerated Tax Depreciation
30. SG&A Expenses—Foreign Exchange Losses

[FR Doc. 02–24791 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–834]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold Rolled Carbon Steel Flat Products From Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Anya Naschak, Helen Kramer, or Abdelali Elouaradia at (202) 482–0405, (202) 482–6375, or (202) 482–1374, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to

the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce (Department) regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Germany are being, or are likely to be, sold in the United States at less than fair value (LFTV), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001). We published in the **Federal Register** the preliminary determination in this investigation on May 9, 2002. *See Notice of Preliminary Determination of Sales at Not Less Than Fair Value and Postponement of Final Determination: Certain Cold Rolled Carbon Steel Flat Products from Germany,* 67 FR 31212 (May 9, 2002) (*Preliminary Determination*). We published in the **Federal Register** the amended preliminary determination in this investigation on May 29, 2002. *See Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Germany,* 67 FR 37385 (May 29, 2002) (*Amended Preliminary Determination*).

Since the publication of the Preliminary Determination the following events have occurred.

With respect to scope, in the preliminary LTFV determinations in these cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (Preliminary Scope Rulings), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the Preliminary Scope Rulings on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the ''Scope of Investigation'' section below.

On April 26, 2002, we issued additional supplemental questionnaires for sections B through E to the respondent, Thyssen Krupp Stahl AG (Thyssen). Thyssen submitted its response to the supplemental sections B through E questionnaires on May 13, 2002. The Department received requests for a public hearing on May 20, 2002, and June 10, 2002, from petitioners, and from Thyssen on June 5, 2002. All parties withdrew their requests for a public hearing.

The Department verified sections A and B of Thyssen's responses from May 21, 2002, to May 25, 2002, at Thyssen's facilities in Duisburg, Germany; at Thyssen's trading company from May 27, 2002, to May 29, 2002, in Langenfeld, Germany, and at Thyssen's affiliated company on May 31, 2002, in Andernach, Germany. The Department also verified section D of Thyssen's response from May 27, 2002, to May 31, 2002, at Thyssen's facilities. Additionally, the Department verified sections E of Thyssen's responses from June 10, 2002, to June 14, 2002, at Thyssen's affiliated companies in Detroit, Michigan, and verified section C of Thyssen's response from June 17, 2002, to June 21, 2002, at Thyssen's affiliated companies in Detroit, Michigan. See Memorandum to the File: ''Sales Verification of Sections A and B Questionnaire Responses Submitted by Thyssen Krupp Stahl AG,'' July 23, 2002, (Home Market Verification Report); Memorandum to the File: ''Sales Verification of Sections A and C Questionnaire Responses Submitted by Thyssen Krupp Stahl AG,'' July 23, 2002, (U.S. Verification Report); Memorandum to Neal Halper, Director, Office of Accounting: ''Verification Report on the Cost of Production and Constructed Value,'' July 22, 2002, (Cost Verification Report); and Memorandum to Neal Halper, Director, Office of Accounting: ''Verification Report on the Further Manufacturing Cost Data,'' July 31, 2002, (Further Manufacturing Cost Verification Report). Public version of these and all other departmental memoranda referred to herein are on file in the CRU room B–099 of the main Commerce building.

On August 9, 2002, the Department received case briefs from Thyssen and petitioners. On August 14, 2002, the Department received rebuttal briefs from Thyssen and petitioners. On August 26, 2002, the Department met with counsel for Thyssen. See Memorandum to the File regarding Ex-Parte Meeting with Counsel for Respondent, dated August 26, 2002.

Period of Investigation

The POI is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the filing of the petition in September 2001.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. For a full description of the scope of this investigation, as well as a complete discussion of all scope exclusion requests submitted in the context of the on-going cold-rolled steel investigations, please see the ''Scope Appendix'' attached to the *Notice of Correction to Final Determination of*

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, petitioners).

Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia, 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the *Issues and Decision Memorandum for the Antidumping Investigation of Cold Rolled Carbon Steel Flat Products from Germany; Notice of Final Determination of Sales at Less Than Fair Value* (Decision Memo), which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculation. These changes are noted in various sections of the Decision Memo, accessible in B–099 and on the World Wide Web at *http://www.ia.ita.doc.gov/frn.*

Use of Facts Available

In the *Preliminary Determination,* the Department based the dumping margin for Thyssen in part on facts available pursuant to section 776(b) of the Act. The use of facts available was warranted because Thyssen failed to supply the information the Department requested for downstream home market sales made by its affiliated trading companies/service centers. Moreover, the Department found that Thyssen failed to cooperate by not acting to the best of its ability. As a result, pursuant to section 776(b) of the Act, the Department used an adverse inference in selecting from the facts available. Specifically, for the *Preliminary Determination,* the Department assigned Thyssen (by control number) the highest gross unit price and the lowest or highest adjustments—whichever is adverse—for sales in the home market within two widths corresponding to a portion of the widths sold by Thyssen's affiliated service centers (see Thyssen's March 19, 2002, supplemental section B response), and the revised amounts were used to calculate normal value (NV). For a complete explanation of both the selection and application of these facts available, *see e.g. Preliminary Determination* and Memorandum to the File, regarding the Preliminary Determination Analysis, dated April 26, 2002.

In accordance with section 776 of the Act, we have determined that, due to Thyssen's continued refusal to supply the information requested by the Department on its home market downstream sales by its affiliates despite its ability to do so, and due to Thyssen's continued failure to act to the best of its ability, the use of adverse facts available is appropriate in this final determination. Accordingly, we have applied the highest gross unit price and the lowest or highest adjustments—whichever is adverse—by control number to all sales in the home market. For a discussion of our determination with respect to these matters, *see* Decision Memo at Comment 1.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of cold-rolled steel from Germany, that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

We determine that the following weighted-average dumping margin exists for the period July 1, 2000, through June 30, 2001:

Exporter/manufacturer	Margin (percent)
Thyssen Krupp Stahl AG	12.56
All Others	12.56

International Trade Commission (ITC) Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I: Issues in Decision Memorandum

Comment 1: Use of Adverse Facts Available for Home Market Downstream Sales
Comment 2: Home Market Discounts
Comment 3: Inland Freight, Mill to Company Border—Movement Expense
Comment 4: Home Market Indirect Selling Expenses
Comment 5: Home Market Credit Expenses
Comment 6: Date of Sale
Comment 7: Use of Facts Available for Sales by the Budd Company
Comment 8: U.S. Sales Clerical Errors
Comment 9: U.S. Credit and Inventory Carrying Costs
Comment 10: U.S. Indirect Selling Expense
Comment 11: Setting Negative Margins to Zero in the Calculation of the Dumping Margin
Comment 12: Clerical Corrections in the Home Market and U.S. Sales and Cost Verification Reports
Comment 13: Slabs Supplied by a TKS affiliate
Comment 14: Unreconciled Difference
Comment 15: Mill Edge Credit in the U.S. Market
Comment 16: General and Administrative Expense Ratio
Comment 17: Financial Expense Ratio
Comment 18: G&A Further Manufacturer
Comment 19: Depreciation of Machine Tools

and Spare Parts

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–307–822]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Venezuela

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3207 and (202) 482–3434, respectively.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2002).

Final Determination

We determine that certain cold-rolled carbon steel flat products from Venezuela are being, or are likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 735 of the Act. The estimated margin of dumping is shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on May 9, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from Venezuela,* 67 FR 31273 (May 9, 2002) (''*Preliminary Determination*''). Since the publication of the *Preliminary Determination,* the following events have occurred.

On May 6, 2002, Siderurgica del Orinoco C.A. (''Sidor'') requested that the Department correct a ministerial error found in Sidor's preliminary determination calculations of the margin. On May 17, 2002, the Department determined that, although there was a certain ministerial error, it did not meet the definition of a significant ministerial error within the meaning of 19 CFR 351.224(g)(1). As a result, at that time we did not make the suggested correction. However, we have made the adjustment for the ministerial error in this final determination. *See Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Venezuela: Analysis of Allegation of Ministerial Error* (''*Ministerial Error Memo*'') dated May 17, 2002.

On May 10, 2002, Sidor submitted a proposed suspension agreement. *See Suspension Agreement Section* below.

On June 17 through June 28, 2002, the Department conducted a verification of Sidor at Puerto Ordaz, Venezuela. On July 31 through August 2, 2002, the Department conducted a verification of Siderca Corporation in Houston, Texas.

On August 21, 2002, Sidor submitted its case brief with respect to the Department's *Preliminary Determination* and verifications. On August 22, 2002, petitioners submitted their case brief with respect to the Department's *Preliminary Determination* and verifications. On August 26, 2002, petitioners and respondent submitted rebuttal briefs.

Scope of Investigation

With respect to scope, in the preliminary LTFV determinations in all of the cold-rolled steel investigation cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*:). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (''CRU''), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the following paragraph.

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (''POI'') is January 1, 2001, through June 30, 2001. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, September 2001).

Facts Available

Section 776(a)(2) of the Act, provides that: If an interested party or any other

person (A) withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title. Because the cost of production data and constructed value information submitted by Sidor could not be verified, and the Department could not use Sidor's home market sales data, the Department applied total facts available pursuant to section 776(a)(2).

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide the person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate. Further, section 782(i)(1) states that Department shall verify all information relied upon in making a final determination in an investigation.

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may draw an inference that is adverse to the interests of that party in selecting from among the facts otherwise available. Section 776(b)(4) of the Act states that adverse inferences may be based on any other information placed on the record.

We find that, in accordance with sections 776(a)(2)(D) and 776(b) of the Act, the use of facts available for Sidor is appropriate for this final determination. Sidor failed to provide a reconciliation of the POI cost of manufacture per its books and records to the per-unit costs reported to the Department, thereby negating the Department's ability to use Sidor's home market sales data. Without this reconciliation, we are unable to determine whether Sidor accounted for all costs related to the merchandise under investigation. As such, the use of facts available in the final determination is warranted pursuant to section 776(a)(2)(D) of the Act.

The Department applies adverse facts available ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *Uruguay Round Agreements Act, Statement of Administrative Action,* H.R. Doc No. 103–316, vol. 1, at 870 (1994) (''SAA''). In this case, Sidor failed to cooperate to the best of its ability by not being adequately prepared for verification and not being able to reconcile its own cost data.

In selecting from among the facts available, section 776(b) of the Act authorizes the Department to use an inference that is adverse to a party if the Department finds that the party has failed to cooperate by not acting to the best of its ability to comply with requests for information. *See* SAA 870. To examine whether the respondent ''cooperated'' by ''acting to the best of its ability'' under section 776(b) of the Act, the Department considers, inter alia, the accuracy and completeness of submitted information and whether the respondent has hindered the calculation of accurate dumping margins. *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review,* 62 FR 53808 (October 16, 1997). In this case, Sidor has hindered the calculation of an accurate margin.

It is the Department's practice to assign the highest rate from any segment of a proceeding as total adverse facts available when a respondent fails to cooperate to the best of its ability. *See, e.g., Stainless Steel Plate in Coils From Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review,* 67 FR 5789 (February 7, 2002) (''Consistent with Department practice in cases where a respondent fails to cooperate to the best of its ability, and in keeping with section 776(b)(3) of the Act, as adverse facts available we have applied a margin based on the highest margin from this or any prior segment of the proceeding.''). Therefore, the Department is applying the rate from the Preliminary Determination to Sidor for this Final Determination. We are applying the petition rate for the All Other's Rate. *See All Other's Rate Section* below.

All Other's Rate

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or de minimis margins, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''all-others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than facts available margins to establish the ''all others'' rate. Where the data does not permit weight-averaging such rates, the SAA at 873 provides that we may use other reasonable methods. Because the petition in this case contained only an estimated price-to-price dumping margin, which the Department adjusted for purposes of initiation, there are no additional estimated margins available with which to create the ''all others'' rate. *See Notice of Final Determination of Sales at Less Than Fair Value: Welded Large Diameter Line Pipe From Mexico,* 67 FR 566, 567–68 (January 4, 2002).

Therefore, we are not applying Sidor's adverse rate from the final determination to the All Other's Rate, but instead are using the lower petition rate as we recognize that nonparticipating parties have no culpability for the absence of company-specific information on the record and should not receive the adverse facts available rate. *See Notice of Final Determinations of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products From Argentina, Japan and Thailand,* 65 FR 5520 (February 4, 2000).

Analysis of Comments Received

All issues raised in the case brief by parties to this investigation are addressed in the *Decision Memorandum,* which is hereby adopted by this notice. A list of the issues which parties raised, and to which we have responded, all of which are in the *Decision Memorandum,* is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in B–099. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/.* The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determination

We have adjusted the calculation methodology used in the *Preliminary Determination* to correct for a clerical error (*see Case History* section and *Ministerial Error Memo*) in determining

the final dumping margin in this proceeding.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondents.

Suspension Agreement

On May 10, 2002, Sidor submitted a proposal for a suspension agreement in accordance with the Department's regulations at 19 CFR 351.208. On June 19, 2002, the Department met with representatives of Sidor to discuss the proposed suspension agreement. No agreement was concluded.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of cold-rolled steel from Venezuela, that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin (percent)
Sidor	58.95
All Others	53.90

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix 1—General Issues

Comment 1: Reliability of Costs
Comment 2: Major Inputs
Comment 3: Depreciation
Comment 4: General and Administrative Expenses (''G&A'')
Comment 5: Financial Expenses
Comment 6: Sidor's Home Market Credit Expenses
Comment 7: Constructed Export Price Offset
Comment 8: Home Market Indirect Export Billing Adjustment
Comment 9: U.S. Inland Trucking Freight Expense
Comment 10: Ministerial Error
Comment 11: Ministerial Error
Comment 12: Computer Code Language

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–815]

Notice of the Final Determination Sales at Less Than Fair Value and Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of the final determination of sales at less than fair value.

SUMMARY: The Department of Commerce is issuing its final determination of the less-than-fair-value investigation of certain cold-rolled carbon steel flat products from the Russian Federation.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Amy Ryan at 202–482–0961 or James C. Doyle at 202–482–0159, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (''cold-rolled steel'') from the Russian Federation (''Russia'') are being, or are likely to be sold, in the United States at less than fair value (''LFTV''), as provided in section 735 of the Act. The estimated margins are shown in the ''Suspension of Liquidation'' section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From the Russian Federation*, 67 FR 31241 (May 9, 2002) (''*Preliminary Determination*''). This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela*, 66 FR 54198 (October 26, 2001) (''*Initiation Notice*'').

We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted.

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

On May 13, 2002, the Russian Ministry of Economic Development and Trade submitted to the Department a proposed draft of a suspension agreement between them and the Department. On May 30, 2002, the Russian government requested an extension of the final determination in order to have time to negotiate an agreement to suspend this investigation. On August 23, 2002, in Washington, DC, representatives from three of Russia's cold-rolled producers initialed the agreed upon suspension agreement. Please *see* IA's Web site at *http://www.ia.ita.doc.gov/download/russia-cold-rolled/ip-ltr-draft-cold-rolled-susp-agreement* for the initialed draft agreement and cover letter sent to the interested parties. We invited comments on the proposed agreement and received them from petitioners on September 16, 2002.

On September 23, 2002, the final suspension agreement was signed by JSC Severstal, Novolipetsk Iron and Steel Corporation and JSC Magnitogorsk Iron and Steel Works, (collectively the ''Russian cold-rolled steel producers'') and the Department, the effective date being September 23, 2002. On September 24, 2002, on behalf of the Russian cold-rolled steel producers, we received a request for continuation of the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act.

Scope of Investigation

With respect to scope, in the preliminary LTFV determinations in all of the cold-rolled steel investigation cases, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina*, 67 FR 31181 (May 9, 2002) (''*Scope Appendix—Argentina Preliminary LTFV Determination*''). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (''*Preliminary Scope Rulings*''), which is on file in the Department's Central Records Unit (''CRU''), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the following paragraph.

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia*, 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings*, see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (''POI'') is January 1, 2001 through June 30, 2001. This period corresponds to the two most recent fiscal quarters prior to the filing of the petition (*i.e.*, September 2001).

Final Critical Circumstances Determination

On November 29, 2001 and December 7, 2001, four of the petitioners in the investigation (Nucor Corporation, Steel Dynamics, Inc., WCI Steel, Inc., and Weirton Steel Company) submitted an allegation of critical circumstances with respect to imports of cold-rolled steel from Russia and requested an expedited decision in the matter. On April 10, 2002, the Department issued its preliminary affirmative determination that critical circumstances exist with respect to imports of cold-rolled steel from Russia. *See Memorandum to Faryar Shirzad from Joseph A. Spetrini: Preliminary Affirmative Determinations of Critical Circumstances* (April 10, 2002); and *Notice of Preliminary Determinations of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Australia, the People's Republic of China, India, the Republic of Korea, the Netherlands, and the Russian Federation*, 67 FR 19157 (April 18, 2002) (''*Critical Circumstances Notice*''). We received no comments regarding our preliminary finding that critical circumstances exist for imports of cold-rolled steel from Russia. Therefore, we have not changed our determination and continue to find that critical circumstances exist for imports of cold-rolled steel from Russia.

Nonmarket Economy Country Status

The Department has treated Russia as a nonmarket economy (''NME'') country in all past antidumping investigations. *See*, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value; Solid Fertilizer Grade Ammonium Nitrate from the Russian Federation*, 65 FR 42669 (July 11, 2000); *Notice of Final Determination of Sales at Less Than Fair Value: Hot-Rolled Flat-Rolled Carbon-Quality Steel Products from the Russian Federation*, 64 FR 38626 (July 19, 1999); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from the Russian Federation*, 62 FR 61787. No party has sought revocation of the NME status in this investigation.[2] Therefore, in accordance with section 771(1)(C) of the Act, we will continue to

[2] We note that effective April 1, 2002, Russia is considered a market economy country. However, because the POI took place before this date, Russia continues to be considered an NME for this investigation. *See Memorandum From Albert Hsu, Barbara Mayer and Christopher Smith through Jeff May to Faryar Shirzad: Inquiry into the Status of the Russian Federation as a Non-Market Economy Country Under the U.S. Antidumping Law* (June 6, 2002) at Import Administration's Web site, *http://www.ia.ita.doc.gov/download/russia-nme-status/russia-nme-decision-final.html.*

treat Russia as a NME country for purposes of this investigation.

Russia-Wide Rate

In a NME proceeding, the Department presumes that all companies within the country are subject to governmental control, and assigns separate rates only if the respondent demonstrates the absence of both *de jure* and *de facto* governmental control over export activities. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China*, 61 FR 19026, 19027 (April 30, 1996). As no party requested that it be assigned a separate rate in this investigation, there was no demonstration of eligibility for a separate rate under the separate rates criteria. Accordingly, we determine that all exporters are subject to the Russia-wide rate.

Analysis of Comments Received

As noted above, there were no case or rebuttal briefs submitted in this investigation, nor was there a hearing. Additionally, we received no comments from interested parties in response to our preliminary results.

Facts Available

Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline for submission of the information, or in the form and manner requested, (C) significantly impedes a proceeding under the antidumping statute, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) of the Act, facts otherwise available in reaching the applicable determination.

Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; and (5) the information can be used without undue difficulties.

As explained in the *Preliminary Determination*, neither Severstal or the Government of Russia (''GOR'') responded to the Department's questionnaire. Without a response to the Department's antidumping questionnaire, we have no foundation for determining a margin. As done in the preliminary determination in this investigation, the Department has applied facts available (''FA''), in accordance with section 776(a)(2) of the Act, in making our final antidumping determination. *See Preliminary Determination* for a further discussion of this issue.

Selection of Adverse FA

In selecting from among the facts otherwise available, section 776(b) of the Act provides that if the Department finds the respondent ''has failed to cooperate by not acting to the best of its ability to comply with a request for information * * *{the Department} may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See, e.g., Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review*, 62 FR 53808, 53819–20 (October 16, 1997). Severstal did not attempt to respond to the Department's questionnaire, but stated its intention of not responding to the questionnaire at all. *See Memorandum to The File from Juanita H. Chen: Failure of Respondent JSC Severstal to Respond to Questionnaire* (February 4, 2002). As noted above, the GOR also did not respond at all to the Department's questionnaire. Because the Department has determined that both Severstal and the GOR failed to cooperate to the best of their abilities, we are applying an adverse inference pursuant to section 776(b) of the Act. As adverse FA, we have applied the margin from initiation (*i.e.*, the highest margin based on the amended petition), which is 137.33 percent, as the Russia-wide rate. See AD Initiation Checklist (October 18, 2001). Pursuant to section 776(c) of the Act, the Department has corroborated the 137.33 percent margin from initiation to the extent practicable. See Total Facts Available Corroboration Memorandum (April 26, 2002). This Russia-wide rate applies to all entries of subject merchandise. *See Preliminary Determination* for a further discussion of this issue.

Termination of Suspension of Liquidation

On September 23, 2002, the Department signed a suspension agreement with the Russian cold-rolled steel producers. Therefore, we will instruct Customs to terminate the suspension of liquidation of all entries of hot-rolled steel from Russia. Any cash deposits of entries of hot-rolled steel from Russia shall be refunded and any bonds shall be released.

On September 24, 2002, on behalf of the Russian cold-rolled steel producers, we received a request for continuation of the investigation. Pursuant to this request, we have continued and completed the investigation in accordance with section 734(g) of the Act. We have found the following weight-averaged dumping margin exists for the period January 1, 2001 through June 30, 2001:

Manufacturer/exporter	Margin (percent)
Russia-Wide Rate	137.33

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our determination. Because our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threatening material injury to, the U.S. industry. If the ITC determines that material injury, or threat of material injury does not exist, the Agreement will have no force of effect, and the investigation shall be terminated. See Section 734(f)(3)(A) of the Act. If the ITC determines that such injury does exist, the Agreement shall remain in force but the Department shall not issue an antidumping order so long as (1) the Agreement remains in force, (2) the Agreement continues to meet the requirements of subsections (d) and (l) of the Act, and the parties to the Agreement carry out their obligations under the Agreement in accordance with its terms. See section 734(f)(3)(B) of the Act.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 24, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24794 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–848]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Brian Ledgerwood at (202) 482–3836, or Mark Young at (202) 482–6397, Office of AD/CVD Enforcement VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce (''the Department'') regulations are to the regulations at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (''cold-rolled steel'') from Korea are being, or are likely to be, sold in the United States at less than fair value (''LFTV''), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Korea,* 67 FR 31255 (May 9, 2002) (''*Preliminary Determination*''). On June 28, 2002, the Department published its postponement of the final determination in the above captioned antidumping duty investigation. *See Certain Cold-Rolled Carbon Steel Flat Products from Korea: Postponement of Final Determination of Antidumping Investigation,* 67 FR 43582, (''June 28, 2002''). Since the preliminary determination, the following events have occurred. In May 2002, the Department verified the responses submitted by the respondents in this investigation, Pohang Iron & Steel Co., Ltd. (''POSCO'') and Dongbu Steel Co., Ltd., (''Dongbu'') (collectively, ''the respondents''). In July 2002, the Department conducted the U.S. subsidiary verification of Pohang Steel America Corporation (''POSAM'') and Dongbu U.S.A. Incorporated (''Dongbu USA''). On August 26, 2002, we received case briefs from the petitioners [1] and the respondents. On September 5, 2002, we received rebuttal briefs from the petitioners and the respondents. A public hearing was held on September 9, 2002.

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (''CRU''), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners [2] and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the scope petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (''cold-reduced'') flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum titled ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (''POI'') is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the respondents. We used standard verification procedures including

[1] The petitioners in this investigation are Bethlehem Steel Corporation, National Steel Corporation, United States Steel Corporation, and Nucor Corporation.

[2] The petitioners in the scope rulings are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, ''the scope petitioners'').

examination of relevant accounting and production records, and original source documents provided by the respondents.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the appendix to this notice and addressed in the *Decision Memorandum* dated September 23, 2002, and are hereby adopted by this notice. The *Decision Memorandum* is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/frn/index.html.* The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determinations

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary determination in calculating the final dumping margin in this proceeding. These adjustments to the dumping margin are discussed in the *Decision Memorandum* for this investigation.

Critical Circumstances

On April 10, 2002, the Department preliminarily determined that critical circumstances exist with respect to all imports of cold-rolled steel from Korea except for those from Dongbu. *See* Memorandum from Bernard Carreau to Faryar Shirzad Re: Preliminary Affirmative Determinations of Critical Circumstances; *see* also *Notice of Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products from Australia, the Peoples Republic of China, India, The Republic of Korea, the Netherlands, and the Russian Federation,* 67 FR 19157 (April 18, 2002) (''*Preliminary Critical Circumstances Determination*''). In its preliminary finding of critical circumstances, the Department determined that there was a history of dumping and material injury by reason of dumped imports of subject merchandise in the United States by Korean manufacturers; that there was a reasonable basis to believe or suspect importers of the subject merchandise knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and that there have been massive imports of the subject merchandise over a relatively short period of time. For further details, *see* the *Preliminary Determination,* the *Preliminary Critical Circumstances Determination,* and *Memorandum to File, from Mark Manning: Respondents' Arguments Concerning the Preliminary Determination of Affirmative Critical Circumstances,* dated April 26, 2002.

Whereas no new or persuasive evidence to the contrary has been presented to the Department since the *Preliminary Critical Circumstances Determination,* we have determined in this final determination that critical circumstances exist for imports of Cold-Rolled Steel from Korea (with the exception of Dongbu). *See Decision Memorandum* at comment 7 for further discussion.

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we are instructing the U.S. Customs Service (''Customs'') to continue to suspend liquidation of all imports of cold-rolled steel from Korea (except those produced or exported by Dongbu) that are entered, or withdrawn from warehouse, for consumption on or after February 8, 2002 (which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**). For subject merchandise produced or exported by Dongbu, we are instructing Customs to continue to suspend liquidation for imports that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002 which is the date of the preliminary determination. Customs shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. The suspension of liquidation instructions will remain in effect until further notice.

In the companion countervailing duty investigation we have found the existence of export subsidies. Section 772(c)(1)(C) of the Act directs the Department to increase EP or CEP by the amount of the countervailing duty ''imposed'' on the subject merchandise ''to offset an export subsidy'' in an administrative review. The basic economic theory underlying this provision is that in parallel antidumping and countervailing duty investigations, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market by the amount of any such export subsidy. Thus, the subsidy and dumping are presumed to be related, and the assessment of duties against both would in effect be ''double-application'' or imposing two duties against the same situation. Therefore, Congress, through section 772(c)(1)(C) of the Act, indicated that the Department should factor the subsidy into the antidumping calculations to prevent this ''double-application'' of duties.

We believe the economic theory implicit in section 772(c)(1)(C) of the Act should also generally apply to our cash deposit calculations in an investigation. The calculations underlying cash deposit rates resulting from an initial investigation are essentially equivalent to those determined in administrative reviews leading to the assessment of antidumping duties. Congress has indicated, in effect, that no dumping exists if the export subsidies calculated in a countervailing duty proceeding are equal to or greater than the calculated dumping margin. The Department believes that this is true regardless if such a result appears in an administrative review or in an investigation. The Department has determined in its Final Affirmative Countervailing Duty Determination: *Notice of Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from the Republic of Korea* (''*Cold-Rolled CVD*'') (issued concurrently) that the product under investigation benefited from export subsidies. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount of the countervailing duty determined to offset an export subsidy. *See, e.g., Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy,* 63 FR 49327 (September 15, 1998); and *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India,* 67 FR 34899, (May 16, 2002). Accordingly, for cash deposit purposes we will subtract from the cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination, in the event that an order in the companion countervailing

duty case is issued.[3] After the adjustment for the cash deposit rate attributed to export subsidies, the resulting cash deposit rate for Dongbu will be 11.02 percent. In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the preliminary determination in the **Federal Register**. We will instruct the Customs Service to continue to require a cash deposit or the posting of a bond for each entry equal to the weighted-average amount by which the normal value exceeds the export price, adjusted for the export subsidy rate, as indicated below. These suspension of liquidation instructions will remain in effect until further notice.

We determine that the following percentage margins exist for the period July 1, 2000, through June 30, 2001:

Manufacturer/exporter	Margin (percent)[4]
POSCO	5.15[5]
Dongbu	11.13
All Others	8.90

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Order (APO)

This notice also serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—List of Comments and Issues in the Decision Memorandum

A. Issues

Scope

1. Scope of the Investigation

Pohang Iron & Steel Co., Ltd. (''POSCO'')

Sales Issues:
- Comment 1: U.S. ''Channel 3'' Sales
- Comment 2: Middleman Dumping Allegation
- Comment 3: Certifications of Completeness and Accuracy
- Comment 4: U.S. Indirect Selling Expenses
- Comment 5: Temper, Annealing, and Surface Finish Fields
- Comment 6: Constructed Export Price—CEP—Offset
- Comment 7: Critical Circumstances

Cost Issues:
- Comment 8: General and Administrative Expense Rate Calculation

Dongbu Steel Co., Ltd. (''Dongbu'')

Sales Issues:
- Comment 9: U.S. Indirect Selling Expense Calculation Methodology
- Comment 10: Constructed Export Price—CEP—Offset
- Comment 11: Warranty Expenses
- Comment 12: Submission of New Factual Information
- Comment 13: Ministerial Errors
- A. The Department's Preliminary Determination Failed to Distinguish Between Prime and Non-Prime Sales
- B. The Department's Margin Program Incorrectly Converts the Variables HMMOVE and HMPACK
- C. The Department's Preliminary Determination Double Counted Billing Adjustments
- D. The Department Failed to Assign a Weight to Dongbu's ''Stone Finish'' Merchandise

Cost Issues:
- Comment 14: Interest Expense/Financial Expense Ratio
- Comment 15: General and Administrative Expense Rate

[FR Doc. 02–24795 Filed 10–2–02; 8:45 am]

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[3] Because suspension of liquidation in *Cold-Rolled CVD* is currently discontinued and will not be resumed unless and until the Department issues a countervailing duty order, the antidumping cash deposit rates are the rates indicated below.

[4] If an order is issued in the companion countervailing duty investigation, suspension of liquidation in *Cold-Rolled CVD* will resume. Additionally, if an order is issued in this antidumping duty investigation, the Department will issue antidumping duty cash deposit instructions requiring a cash deposit rate for Dongbu equal to the dumping margin calculated for Dongbu less the export subsidy rate calculated for Dongbu in *Cold-Rolled CVD.* In *Cold-Rolled CVD,* Dongbu's *ad valorem* export subsidy rate is 0.11 percent. Therefore, we will adjust Dongbu's antidumping duty rate by the export subsidy rate, if necessary (*i.e.,* 11.13 − 0.11 = 11.02 percent). Furthermore, the Department will issue antidumping duty cash deposit instructions requiring an ''All Others'' cash deposit equal to the ''All Others'' antidumping duty rate less the ''All Others'' export subsidy rate calculated in *Cold-Rolled CVD.* In *Cold-Rolled CVD,* the ''All Others'' *ad valorem* export subsidy rate is 0.11 percent. Therefore, we will adjust the antidumping duty ''All Others'' margin by the export subsidy rate, if necessary (*i.e.,* 8.90 − 0.11 = 8.79 percent).

[5] In *Cold-Rolled CVD,* POSCO's *ad valorem* net subsidy rate is *de minimis.* Therefore, we will not adjust POSCO's antidumping duty rate by its export subsidy rate, because POSCO would be excluded from any resulting countervailing duty order on certain cold-rolled carbon steel flat products from Korea.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–810]

Notice of Final Determination of Sales at Less Than Fair Value; Certain Cold-Rolled Carbon Steel Flat Products From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

ACTION: Notice of final determination of sales at less than fair value.

FOR FURTHER INFORMATION CONTACT: Melissa Blackledge, or Robert James at (202) 482–3518, or (202) 482–0649, respectively; Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Tariff Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Final Determination

We determine that cold-rolled carbon steel flat products (cold-rolled steel) from Turkey are being sold, or are likely

to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act. The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Case History

We published in the **Federal Register** the preliminary determination in this investigation on May 9, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Carbon Steel Flat Products from Turkey,* 67 FR 31264 (May 9, 2002) (*Preliminary Determination*). Since the publication of the *Preliminary Determination* the following events have occurred.

On May 7, 2002, respondent in this investigation, BorÇelik Çelik Sanayii Ticaret A.Ş. (BorÇelik), timely submitted an allegation of several ministerial errors with respect to the preliminary determination and requested the Department correct the alleged errors and publish an amended preliminary determination. *See* 19 CFR 351.224(e) of the Department's regulations. The Department issued a memo addressing the allegations of ministerial errors and issued an amended preliminary determination on June 12, 2002. *See Notice of Amended Preliminary Determination of Sales at Less Than Fair Value: Cold-Rolled Carbon Steel Flat Products from Turkey,* 67 FR 41695 (June 19, 2002) (*Amended Preliminary Determination*).

The Department verified sections A-C of BorÇelik's responses from May 13 through May 17, 2002, at its administrative headquarters in Gemlik, Turkey. The Department also verified section D of BorÇelik's response from May 21 through May 25, 2002, at Borçelik's administrative headquarters. *See* Memorandum For the File; ''Sales Verification of BorÇelik'', June 19, 2002 (Sales Verification Report) and Memorandum to Neal Halper, Acting Director, Office of Accounting; ''Verification Report on the Cost of Production and Constructed Value Data—BorÇelik,'' June 26, 2002 (Cost Verification Report). Public versions of these, and all other Departmental memoranda referred to herein, are on file in the Central Records Unit, room B–099 of the main Commerce building.

On May 31, 2002, the respondent, BorÇelik, requested the Department postpone the final determination the full sixty days as permitted by the statute and the Department's regulations. On June 14, 2002, the Department postponed the final determination until no later than 135 days after publication of the preliminary determination in the **Federal Register**. *See Notice of Postponement of Final Determination of Sales at Less Than Fair Value: Cold-Rolled Carbon Steel Flat Products from Turkey,* 67 FR 41955 (June 20, 2002).

On May 20, 2002, Nucor Corporation,[1] a petitioner in this investigation, requested a public hearing. On July 2, 2002, Nucor Corporation withdrew its request for a hearing. On July 12, 2002, respondent and petitioners filed case briefs. We received rebuttal briefs from all parties on July 17, 2002.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (Decision Memorandum) from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 23, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memorandum, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in B–099.

In addition, a complete version of the Decision Memorandum can be accessed directly on the World Wide Web at *http://www.ia.ita.doc.gov/.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Use of Facts Available

For a discussion of our application of facts available, see the ''Discussion of Issues'' section of the Decision Memorandum, Comment 3, which is on file in B–099 and available on the Web at *http://www.ia.ita.doc.gov/.*

Changes Since the Amended Preliminary Determination

Based on our analysis of comments received and findings at verification, we have made certain changes in the margin calculations. Any allegations of errors are discussed in the relevant sections of the ''Decision Memorandum,'' accessible in B–099 and on the Web at *http://www.ia.ita.doc.gov/.*

Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Tariff Act, we are instructing Customs to continue to suspend liquidation of all entries of cold-rolled carbon steel flat products from Turkey that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the *Preliminary Determination.* The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for the period July 1, 2000, through June 30, 2001:

Exporter/manufacturer	Weighted-average margin (percent)
Borçelik Çelik Sanayii Ticaret A.Ş. (Borçelik)	4.32
All Others	4.32

[1] Other petitioners include Bethlehem Steel Corporation, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, petitioners).

ITC Notification

In accordance with section 735(d) of the Tariff Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue in antidumping order directing Customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of business proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Tariff Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues in Decision Memorandum

Comments and Responses

1. U.S. Dollars v. Turkish Lira for Home Market Prices
2. U.S. Warranty Expenses
3. Cost of Production of Major Input (Hot-Rolled Coil)
4. Depreciation Expenses
5. Scrap
6. G&A Expenses
7. Financial Expense
8. ''Vade Farki'' (Inflation/Due Date-Related Charges)
9. Surface Quality
10. Billing Adjustments
11. ''Kur Farki'' (Currency-Fluctuation Charges)
12. Credit Expenses

[FR Doc. 02–24796 Filed 10–2–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[C–351–835]

Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) has made a final determination that countervailable subsidies are being provided to producers and exporters of certain cold-rolled carbon steel flat products from Brazil. The subsidy rates in this final determination differ from those in the preliminary determination. The revised final subsidy rates for the investigated producers/exporters are listed below in the ''Suspension of Liquidation'' section of this notice.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Sean Carey at (202) 482–3964 or Holly Hawkins at (202) 482–0414, Office of AD/CVD Enforcement VII, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR part 351 (2001).

Petitioners

The petition in this investigation was filed on September 28, 2001, by Bethlehem Steel Corporation; United States Steel LLC; LTV Steel Company, Inc.; Steel Dynamics, Inc.; National Steel Corporation; Nucor Corporation; WCI Steel, Inc.; and Weirton Steel Corporation (collectively, ''the petitioners'').

Case History

The following events have occurred since the publication of the preliminary determination in the **Federal Register**. *See Notice of Preliminary Affirmative Countervailing Duty Determination and Alignment with Final Antidumping Duty Determinations: Certain Cold-Rolled Carbon Steel Flat Products from Brazil,* March 4, 2002 (67 FR 9652).

On March 21, 2002, we issued a fourth supplemental questionnaire requesting more information on the National Bank for Economic and Social Development (BNDES) loan programs and on the Program to Induce Industrial Modernization of the State of Minas Gerais (PROIM). On April 9, 2002, respondents filed a response to this supplemental questionnaire. We issued a fifth supplemental questionnaire on May 22, 2002 requesting further clarification on the BNDES programs, and we received a response to this questionnaire on June 3, 2002.

From June 10, 2002 to June 28, 2002, we conducted verification of the questionnaire responses submitted by the Government of Brazil (GOB), Companhia Siderurgica Nacional (CSN), Usinas Siderurgicas de Minas Gerais (USIMINAS), and Companhia Siderurgica Paulista (COSIPA).

On August 23, 2002, we received a combined case brief from the GOB, USIMINAS, COSIPA, and CSN. On this date, we also received a case brief filed by petitioners. On August 29, 2002, we received a combined rebuttal brief from the GOB, and the three respondent companies, USIMINAS, COSIPA, and CSN, as well as a rebuttal brief from the petitioners.

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,*

67 FR 31181 (May 9, 2002) *(Scope Appendix—Argentina Preliminary LTFV Determination).* On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building. We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners [1] and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Period of Investigation

The period for which we are measuring subsidies, or period of investigation (POI) is calendar year 2000.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in CRU.

Analysis of Subsidy Programs

The complete analysis of the programs under investigation is included in the Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Brazil, from Joseph A. Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement III to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 23, 2002.

Programs Determined To Confer Subsidies

We have determined that the following programs confer subsidies:

A. Federal Programs
1. *Equity Infusions*
2. *''Presumed'' Tax Credit for the Program of Social Integration and the Social Contributions of Billings on Inputs Used in Exports (''PIS/COFINS'')*
3. *BNDES Loan Programs*
a. *FINAME*
b. *BNDES Export Import Financing*
c. *BNDESPAR*

B. Provincial Government Program
PRO-INDUSTRIA

Program Determined Not To Confer a Subsidy

We have determined that the FINEM program does not confer a subsidy.

Programs Determined Not To Be Used

We have determined that the following programs have not been used.

A. Federal Program
PROEX

B. Provincial Government Program
PROIM

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the *Issues and Decision Memorandum for the Final Affirmative Countervailing Duty Determination in the Countervailing Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Brazil,* from Joseph A. Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement III to Faryar Shirzad, Assistant Secretary for Import Administration, dated September 23, 2002 *(Decision Memorandum),* which is hereby adopted by this notice. Attached to this notice as Appendix I is a list of the programs investigated and a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum.* Parties can find a complete discussion of all programs and all issues raised in this investigation and the corresponding recommendations in this public memorandum which is on file in the CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Internet at *http://ia.ita.doc.gov/frn/* under the heading ''Brazil.'' The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Suspension of Liquidation

In accordance with section 777A(e)(1) of the Act, we have calculated an individual subsidy rate for each producer/exporter under investigation. We determine the total estimated net subsidy rate for each company to be the following:

Product/exporter	Net subsidy rate (percent)
USIMINAS/COSIPA	13.99
CSN	7.90
All Others	13.07

In accordance with our preliminary affirmative determination, we instructed Customs to suspend liquidation of all entries of cold-rolled steel from Brazil, which were entered or withdrawn from warehouse for consumption on or after March 4, 2002, the date of the publication of our preliminary determination in the **Federal Register**, and to require a cash deposit or bond for such entries of the merchandise in the amounts indicated in the *Preliminary Determination.* In accordance with section 703(d) of the Act, we instructed Customs to discontinue the suspension of liquidation for merchandise entered on or after July 3, 2002, but to continue the suspension of liquidation of entries

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

made between March 4, 2002 and July 3, 2002.

We will reinstate suspension of liquidation under section 706(a) of the Act for all entries if the ITC issues a final affirmative injury determination, and we will require a cash deposit of estimated countervailing duties for such entries of merchandise in the amount indicated above. This suspension of liquidation, if reinstated, will be effective on the date of publication of the countervailing duty order. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or canceled.

ITC Notification

In accordance with section 705(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an Administrative Protective Order (''APO''), without the written consent of the Assistant Secretary for Import Administration.

Return or Destruction of Proprietary Information

In the event that the ITC issues a final negative injury determination, this notice will serve as the only reminder to parties subject to an APO of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO.

This determination is published pursuant to sections 705(d) and 777(i) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix I—Issues and Decision Memorandum

I. *Subsidies Valuation Information*
A. Allocation Period
B. Cross Ownership and Attribution of Subsidies
C. Equityworthiness
D. Equity Methodology
E. Creditworthiness
F. Discount Rates
G. Benchmarks for Loans
H. Trading Companies
I. Changes in Ownership
II. *Programs Determined to Confer Subsidies*
A. Federal Programs
1. *Equity Infusions*
2. *''Presumed'' Tax Credit for the Program of Social Integration and the Social Contributions of Billings on Inputs Used in Exports (''PIS/COFINS'')*
3. *BNDES Loan Programs*
a. *FINAME*
b. *BNDES Export Import Financing*
c. *BNDESPAR*
B. Provincial Government Program
PRO-INDUSTRIA
III. *Program Determined Not to Confer A Subsidy*
FINEM
IV. Programs Determined Not to be Used
A. Federal Program
Programa de Financiamento as Exportacoes (PROEX)
B. Provincial Government Program
Program to Induce Industrial Modernization of the State of Minas Gerais (PROIM)
V. *Analysis of Comments*
Comment 1: CSN, USIMINAS and COSIPA Privatization
Comment 2: PIS/COFINS—Direct Taxes v. Indirect Taxes
Comment 3: PIS/COFINS-Rebate of Prior-Stage Cumulative Indirect Taxes
Comment 4: PIS/COFINS Credit—Excessive Remission
Comment 5: FINEM Financing and Specificity
Comment 6: FINAME as an Import Substitution Program
Comment 7: FINAME Financing and Specificity
Comment 8: Integral Linkage of FINAME and FINEM
Comment 9: Financial Contribution and Benefit of BNDES Loan Programs
Comment 10: BNDES-ExIm Financing and Specificity
Comment 11: BNDESPAR Program
Comment 12: PRO-Industria-Specificity
Comment 13: Non-Use of PROEX
VI. *Total Ad Valorem Subsidy Rate*
VII. *Recommendation*

[FR Doc. 02–24797 Filed 10–2–02; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–423–811]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Belgium.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: James Terpstra or Lyman Armstrong at (202) 482–3965 or (202) 482–3601, respectively; Enforcement Office VI, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (Department) regulations refer to the regulations codified at 19 CFR part 351 (2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Belgium is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Case History

The preliminary determination in this investigation was issued on May 9, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products from Belgium,* 67 FR 31195 (May 9, 2002). Since the publication of the preliminary determination, the following events have occurred.

On May 10, 2002, the Department issued supplemental Sections A, B, and C questionnaires to Sidmar, N.V. (Sidmar), the respondent in this review. The responses were received on May 14, 2002.

On May 13, 2002, Sidmar, the respondent in this review and petitioners [1] submitted comments regarding ministerial errors in the Department's preliminary determination. However, because these errors were not ''significant'' within the meaning of the regulations, 19 CFR 351.224(g), we did not amend the preliminary determination. We have corrected these errors for purposes of our final dumping margin. For further discussion, see the Calculation Memorandum from Lyman Armstrong to the File for the Final Determination

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company Inc., National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

of Certain Cold-Rolled Carbon Steel Flat Products from Belgium, dated September 23, 2002 (Final Calculation Memorandum).

On May 20, 2002, petitioner Nucor Corporation, requested a hearing pursuant to 19 CFR 351.310(c). On May 29, 2002 and June 10, 2002, petitioners Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation, submitted letters, respectively, not requesting a hearing but wishing to participate in any hearing the Department held.

In May and June 2002, the Department verified the responses submitted by Sidmar and its affiliates J&F Steel Corporation (J&F) and TradeARBED Corporation (TANY). Verification reports were issued in July and August 2002. On August 19, 2002, we received case briefs from the petitioners and the respondent. On August 26, 2002, we received rebuttal briefs from the petitioners and the respondents.

On August 26, 2002, petitioner Nucor Corporation a submitted a letter withdrawing its request for a hearing. No hearing was held with respect to this investigation.

On September 5, 2002, we sent a letter to Sidmar requesting revised databases correcting the minor corrections presented at the beginning of the sales and cost verifications.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (August 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings, see* the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (POI) is July 1, 2000, through June 30, 2001.

Verification

As provided in section 782(i) of the Act, we conducted verification of the cost and sales information submitted by the respondent. We used standard verification procedures including examination of relevant accounting and production records, and original source documents provided by the respondent.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this antidumping proceeding are listed in the appendix to this notice and addressed in the *Issues and Decision Memorandum for the Antidumping Duty Investigation of Certain Cold-Rolled Carbon Steel Flat Products from Belgium (Decision Memorandum)* from Holly A. Kuga, Acting Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated concurrently with this notice, which is hereby adopted by this notice. The *Decision Memorandum* is on file in room B–099 of the main Department of Commerce building. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the World Wide Web at *http://ia.ita.doc.gov/.* The paper and electronic versions of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Determinations

Based on our findings at verification, and analysis of comments received, we have made the following adjustments to the preliminary determination in calculating the final dumping margin in this proceeding:

- For a small number of sales in the home and U.S. market Sidmar did not report a date of payment. In accordance with Departmental practice in such cases where payment has not yet been made, we have used the last day of the U.S. sales verification (*i.e.*, June 28, 2002) as payment date in the calculation of imputed credit expenses.
- The Department corrected the margin program based on errors discovered at verification.
- For the final determination the Department has denied all early payment discounts in the home market because Sidmar has failed to demonstrate that it is entitled to such an adjustment.
- For billing adjustments in the U.S. market, the Department has applied partial adverse facts available by setting all positive billing adjustments to zero, and where a negative billing adjustment is misreported, the Department has taken each unique combination of J&F branch and invoice number for which a negative billing adjustment is reported and applied the largest per-unit negative billing adjustment for all records sharing the same branch/invoice number combination.
- The Department corrected clerical errors presented by interested parties in the margin and comparison market program.

These adjustments are discussed in the relevant sections of the *Decision Memorandum* and *Final Calculation Memorandum* for this investigation.

Facts Available

Section 776(a)(2) of the Act provides that ''if an interested party or any other person—(A) Withholds information that has been requested by the administering authority; (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782; (C) significantly impedes a proceeding under this title; or (D) provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall, subject to section 782(d), use the facts otherwise available in reaching the applicable determination under this title.'' In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as the facts otherwise available. The statute also provides that such an adverse inference may be based on secondary information, including information drawn from the petition. In this case, the Department has applied partial facts available for various expenses and adjustments. (See the *Decision Memorandum* at comments 9 and 10).

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of cold-rolled steel exported from Belgium that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond based on the estimated

weighted-average dumping margins shown below. The suspension of liquidation instructions will remain in effect until further notice.

We determine that the following weighted-average dumping margins exist for Belgium:

Manufacturer/exporter	Margin (percent)
Sidmar, N.V.	11.56
All Others	11.56

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determinations. The ITC will determine, within 45 days, whether imports of subject merchandise from Belgium are causing material injury, or threaten material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceedings will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue antidumping orders directing Customs Service officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse for consumption on or after the effective date of the suspension of liquidation.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shizad,

Assistant Secretary for Import Administration.

Appendix—Issues Covered in Decision Memorandum

Sales Issues

(1) Whether to Apply Partial Adverse Facts Available (AFA) to Sidmar's U.S. Sales of Products Further Processed by Laminoir de Dudelange S.A. (LDD) and Imported by J&F Steel Corporation (J&F)
(2) Constructed Export Price (CEP) Offset
(3) Whether the Department Should Make All Minor Corrections Presented On the First Day of Verification
(4) Whether to Correct Sidmar's Failure to Report Rebates for Certain U.S. Sales
(5) Whether to Apply Partial Adverse Facts Available for Sidmar's Failure to Report Certain Movement Expenses
(6) Whether the Department Should Calculate U.S. Credit Expense Using the Weighted Average of TradeARBED (TANY)'s Short-Term Interest Rates
(7) Whether Sidmar's Freight Components Arranged Through Transaf N.V. (Transaf) Were at Arm's Length
(8) Whether the Department Should Calculate TANY's Indirect Selling Expenses Using TANY's Corrected Indirect Selling Expense Ratio
(9) Whether to Apply Partial Adverse Facts Available (AFA) for Sidmar's Misreporting of its Billing Adjustments on its U.S. Sales
(10) Early Payment Discounts
(11) Alleged Clerical Errors in the Preliminary Determination

Cost Issues

(12) General & Administrative (G&A) Expense
(13) Foreign Exchange Gains and Losses
(14) Valuation of Certain Inputs in the Cost of Manufacture
(15) Affiliated Input Transactions

[FR Doc. 02–24798 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–812]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Spain

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood at (202) 482–0656 or (202) 482–3874, respectively, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to Department of Commerce (the Department) regulations refer to the regulations codified at 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Spain are being, or are likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Act. The estimated margins of sales at LTFV are shown in the *Continuation of Suspension of Liquidation* section of this notice.

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Spain,* 67 FR 31248 (May 9, 2002) *(Preliminary Determination).* This investigation was initiated on October 18, 2001.[1] *See Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela,* 66 FR 54198 (October 26, 2001).

Since the preliminary determination, the following events have occurred. On May 13, 2002, Laminacion y Derivados, S.A. (Layde), an exporter that accounts for a significant portion of exports of subject merchandise, requested that the Department postpone the final determination and continue collecting cash deposits for not more than six months. Pursuant to section 733(d) of the Act and 19 CFR 351.210(e)(2), the Department postponed the final determination. *See Postponement of Final Determination of Antidumping Duty Investigation: Certain Cold-Rolled Carbon Steel Flat Products from Spain,* 67 FR 40269 (June 12, 2002). We gave interested parties an opportunity to comment on the preliminary determination. No case or rebuttal briefs were submitted.[2]

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department

[1] The petitioners in this investigation are Bethlehem Steel Corporation, LTV Steel Company, Inc., Nucor Corporation, Steel Dynamics, Inc., United States Steel Corporation, WCI Steel, Inc., and Weirton Steel Corporation (collectively, the petitioners).

[2] Normally, when the Department issues a final determination, the **Federal Register** notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, a separate memorandum is required.

preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) *(Scope Appendix—Argentina Preliminary LTFV Determination).* On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (see the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' *(Preliminary Scope Rulings),* which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in ''Appendix I'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation (POI) for this investigation is July 1, 2000, through June 30, 2001. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

Facts Available

In the preliminary determination, the Department based the dumping margin for Layde on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Layde, as a mandatory respondent, failed to supply the information the Department requested. Therefore, the Department found that Layde failed to cooperate by not acting to the best of its ability. As a result, pursuant to section 776(b) of the Act, the Department used an adverse inference in selecting from the facts available. Specifically, the Department assigned Layde the highest margin alleged in the petition. We continue to find this margin corroborated, pursuant to section 776(c) of the Act. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination,* 67 FR at 31249. No interested parties have objected to the use of adverse facts available for Layde in this investigation, or to the Department's choice of the facts available margin. Accordingly, for the final determination, the Department is continuing to use, for Layde, the highest margin alleged in the petition. *See* the *Preliminary Determination,* 67 FR at 31251. In addition, the Department has left unchanged from the preliminary determination the ''All Others Rate'' in this investigation. *See* the *Preliminary Determination,* 67 FR at 31251.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of cold-rolled steel from Spain, that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Laminacion y Derivados, S.A. (Layde)	46.20
All Others	46.20

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested.

Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 02–24799 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–834]

Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products From Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value.

SUMMARY: On May 9, 2002, the Department of Commerce published its preliminary determination of sales at less than fair value and postponement of final determination of certain cold-rolled carbon steel flat products from Brazil. The period of investigation is July 1, 2000, through June 30, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final determination differs from the preliminary determination. The final weighted-average dumping margins are listed below in the section entitled *Final Determination Margins.*

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Irina Itkin or Elizabeth Eastwood, AD/CVD Enforcement Group I, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–0656 or (202) 482–3874, respectively.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the regulations of the Department of Commerce (the Department) are to 19 CFR part 351 (April 2001).

Final Determination

We determine that certain cold-rolled carbon steel flat products (cold-rolled steel) from Brazil are being, or are likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Act.

Background

The preliminary determination in this investigation was issued on April 26, 2002. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Cold-Rolled Carbon Steel Flat Products From Brazil,* 67 FR 31200 (May 9, 2002) (*Preliminary Determination*). Since the preliminary determination, the following events have occurred.

In May 2002, we conducted verification of the questionnaire responses of the respondent in this case, Usinas Siderurgicas de Minas Gerais (USIMINAS) and Companhia Siderurgica Paulista (COSIPA) (collectively ''USIMINAS/COSIPA'').

We gave interested parties an opportunity to comment on the preliminary determination. In July and August 2002, we received case and rebuttal briefs from the petitioners (Bethlehem Steel Corporation, National Steel Corporation, Nucor Corporation, and United States Steel Corporation) and USIMINAS/COSIPA. The Department held a public hearing on August 16, 2002, at the request of the following petitioners: Bethlehem Steel Corporation, National Steel Corporation, and United States Steel Corporation.

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. *See Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Central Records Unit (CRU), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope rulings, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japanese proceeding) filed a request that the Department issue a ''correction'' for an already excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the ''Scope Appendix'' attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Period of Investigation

The period of investigation is July 1, 2000, through June 30, 2001, which corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2001).

Affiliated Respondents

In the last cold-rolled investigation for Brazil, the Department treated USIMINAS and COSIPA as affiliated parties and collapsed these entities. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Flat-Rolled Carbon-Quality Steel Products from Brazil,* 65 FR 5554, 5562 (Feb. 4, 2000). In the *Preliminary Determination,* the Department stated that it treated these companies as affiliated producers. Neither USIMINAS nor COSIPA commented on our treatment of them as affiliated producers. Therefore, we have continued to treat USIMINAS and COSIPA as a single entity and to calculate a single margin for them.

Analysis of Comments Received

All issues raised in the case briefs by parties to this proceeding and to which we have responded are listed in the Appendix to this notice and addressed in the Decision Memorandum, which is adopted by this notice. Parties can find a complete discussion of the issues raised in this investigation and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B–099 of the main Commerce Building. In addition, a complete version of the Decision Memorandum can be accessed directly on the Web at *http://ia.ita.doc.gov/frn/index.html.* The paper copy and electronic version of the Decision Memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made certain changes to the margin calculations. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondent for use in our final determination. We used standard verification procedures including examination of relevant accounting records, production records, and original source documents provided by the respondent.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B)(ii) of the Act, we are directing the Customs Service to continue to suspend liquidation of all entries of subject merchandise from Brazil that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the preliminary determination in the **Federal Register**.

In the companion countervailing duty investigation we have found the existence of export subsidies with respect to USIMINAS/COSIPA. Section 772(c)(1)(C) of the Act directs the Department to increase export price or constructed export price by the amount of the countervailing duty ''imposed'' on the subject merchandise ''to offset an export subsidy'' in an administrative review. The basic economic theory underlying this provision is that in parallel antidumping and countervailing duty investigations, if the Department finds that a respondent received the benefits of an export subsidy program, it is presumed the subsidy contributed to lower-priced sales of subject merchandise in the United States market by the amount of any such export subsidy. Thus, the subsidy and dumping are presumed to be related, and the assessment of duties against both would in effect be ''double-application'' or imposing two duties against the same situation. Therefore, Congress, through section 772(c)(1)(C) of the Act, indicated that the Department should factor the subsidy into the antidumping calculations to prevent this ''double-application'' of duties.

We believe the economic theory implicit in section 772(c)(1)(C) of the Act should also generally apply to our cash deposit calculations in an investigation. The calculations underlying cash deposit rates resulting from an initial investigation are essentially equivalent to those determined in administrative reviews leading to the assessment of antidumping duties. Congress has indicated, in effect, that no dumping exists if the export subsidies calculated in a countervailing duty proceeding are equal to or greater than the calculated dumping margin. The Department believes that this is true regardless if such a result appears in an administrative review or in an investigation. Therefore, an affirmative dumping determination accompanied by customs instructions which call for the suspension of liquidation and the collection of zero cash deposit rates would be inconsistent with the logic and intent of the law. If the Department's calculations in an investigation result in a zero cash deposit rate, then in reality, there exists no dumping upon which an affirmative determination could be based as to that particular respondent.

The Department has determined in its *Final Affirmative Countervailing Duty Determination: Certain Cold-Rolled Carbon Steel Flat Products from Brazil* (issued concurrently) that the product under investigation benefitted from export subsidies. Consistent with our longstanding practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct the Customs Service to require a cash deposit or posting of a bond equal to the weighted-average amount by which the normal value exceeds the export price, as indicated below, minus the amount of the countervailing duty determined to offset an export subsidy. *See, e.g., Notice of Antidumping Duty Order: Stainless Steel Wire Rod From Italy,* 63 FR 49327 (September 15, 1998) and *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India,* 67 FR 34899 (May 16, 2002). Accordingly, for cash deposit purposes we are subtracting from USIMINAS/COSIPA's cash deposit rate that portion of the rate attributable to the export subsidies found in the affirmative countervailing duty determination for this respondent (*i.e.*, 3.35 percent). After the adjustment for the cash deposit rate attributed to export subsidies, the resulting cash deposit rate for USIMINAS/COSIPA will be 30.53 percent. This rate will be applied only in the event that an order in the companion countervailing duty case is issued.[1]

The Customs Service shall continue to require a cash deposit or posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. This

[1] Because suspension of liquidation in the companion countervailing duty investigation is currently discontinued and will not be resumed unless and until the Department issues a countervailing duty order, the antidumping cash deposit rate is the calculated weighted-average dumping margin of 33.88 percent. If an order is issued in the companion countervailing duty investigation, suspension of liquidation in the countervailing duty investigation will resume. If an order is also issued in this antidumping duty investigation, the Department will issue antidumping duty cash deposit instructions requiring a cash deposit equal to the antidumping margin calculated for USIMINAS/COSPIPA less the export subsidy rate calculated for USIMINAS/COSIPA in the companion countervailing duty investigation.

suspension-of-liquidation instruction will remain in effect until further notice.

Final Determination Margins

We determine that the following percentage weighted-average margins exist:

Manufacturer/exporter	Margin (percent)
Usinas Siderurgicas de Minas Gerais and Companhia Siderurgica Paulista.	33.88
All Others	33.88

In accordance with section 735(c)(5)(A), we have based the ''all others'' rate on the dumping margin found for the sole producer/exporter investigated in this proceeding, USIMINAS/COSIPA.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine, within 45 days, whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing customs officials to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

We are issuing and publishing this determination and notice in accordance with sections 735(d) and 777(i) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Issues in the Decision Memorandum

1. Use of Facts Available
2. Treatment of PIS and COFINS Taxes in Normal Value
3. Treatment of PIS and COFINS Taxes in the Cost of Production
4. Arm's-Length Test
5. Calculation of the Overall Dumping Margin
6. Upward Billing Adjustments
7. Downward Billing Adjustments
8. ICMS and IPI taxes
9. Discounts
10. Home Market Inland Freight Expenses for COSIPA
11. Foreign Inland Freight Expenses for COSIPA
12. Home Market Inland Freight Expenses and Foreign Inland Freight Expenses for USIMINAS
13. Foreign Brokerage and Handling Expenses
14. Credit Expenses for USIMINAS
15. Credit Expenses for COSIPA
16. Warranties vs. Rebates for USIMINAS
17. Warranty Expenses for COSIPA
18. Technical Service Expenses
19. Use of Facts Available to Determine USIMINAS's Cost of Production
20. Inclusion of Non-POI Costs in the Cost of Production
21. Reported Scrap Credit Values
22. Depreciation of Temporarily Idled Assets
23. Amortization of Goodwill
24. Exclusion of Financial Gains and Losses on Receivables from Financial Expenses

[FR Doc. 02–24800 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–791–814]

Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value and negative final determination of critical circumstances.

SUMMARY: We determine that certain cold-rolled carbon steel flat products from South Africa are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended. In addition, we determine that critical circumstances do not exist for imports of cold-rolled carbon steel flat products from South Africa.

We gave interested parties an opportunity to comment on the preliminary determination. Based on our analysis of the comments received, we have made certain changes for the final determination.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Minoo Hatten, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–1690.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (''Department'') regulations are to the regulations codified at 19 CFR part 351 (April 2002).

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. See *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Negative Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From South Africa,* 67 FR 31243 (May 9, 2002) (*Preliminary Determination*). See also *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela,* 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the *Preliminary Determination,* the following events have occurred. On May 13, 2002, and May 27, 2002, the Department conducted a U.S. sales verification and home-market sales verification, respectively, using standard verification procedures. Our verification results are outlined in the public versions of the verification reports (see U.S. sales verification report

from analysts to file, dated May 23, 2002, and home-market verification report, dated June 24, 2002).

We gave interested parties an opportunity to comment on the *Preliminary Determination.* On July 19, 2002, the petitioners [1] submitted their case brief. Iscor Limited (Iscor) and its affiliate, MacSteel International USA Corp (MIUSA) (collectively Iscor), respondent in this investigation, also submitted its case brief on July 19, 2002. The petitioners and Iscor submitted their rebuttal briefs on July 24, 2002. No parties requested a hearing.

With respect to scope, in the preliminary less-than-fair-value (LTFV) determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See *Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope-exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope ruling, and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from the petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japan proceeding) filed a request that the Department issue a ''correction'' for an already-excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope-exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in CRU.

Critical Circumstances

In letters filed on December 7, 2001, and January 14, 2002, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of cold-rolled steel from South Africa and other countries. On May 9, 2002, the Department published in the **Federal Register** its preliminary determination that critical circumstances do not exist for imports of cold-rolled steel from South Africa. See *Preliminary Determination* and critical-circumstances memorandum from Richard W. Moreland to Faryar Shirzad, dated April 26, 2002 (*Preliminary Negative Determinations of Critical Circumstances—South Africa*). A public version of this memorandum is on file in CRU.

We received no comments from the petitioners or the respondent regarding our preliminary finding that critical circumstances do not exist for imports of cold-rolled steel from South Africa. We have not changed our determination and continue to find that critical circumstances do not exist for imports of cold-rolled steel from South Africa.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated September 23, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. This Decision Memo, which is a public document, is on file in the CRU and is accessible on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Determination

Our calculations followed the methodologies described in the *Preliminary Determination,* except as noted below, and in the September 23, 2002, Decision Memo and final determination analysis memorandum.

For certain models for which Iscor did not report constructed-value (CV) data, Iscor identified models which closely matched the models for which it could not furnish the CV data and supplied CV data for the surrogate models. Because we are unable to determine the impact of the difference in the physical characteristics between the similar model chosen and the models with missing costs, we have not included the models with missing CV data in the margin calculation. For a more detailed analysis see our response to comment 5 of the Decision Memo and the final determination analysis memorandum from analyst to file dated September 23, 2002.

We have also applied partial adverse facts available because we find that Iscor did not act to the best of its ability to provide accurate weight-conversion factors. As partial adverse facts available, we have used the lowest weight-conversion factor that we verified as accurate and applied it to all sales that have a reported weight-conversion factor greater than this

[1] The petitioners in the concurrent antidumping duty investigations are Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel LLC, WCI Steel, Inc., and Weirton Steel Corporation. Weirton Steel Corporation is not a petitioner in the Netherlands case. Effective January 1, 2002, the party previously known as ''United States Steel LLC'' changed its name to ''United States Steel Corporation.''

number. For a more detailed analysis see our response to comment 9 of the Decision Memo and the final determination analysis memorandum from analyst to file dated September 23, 2002.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service (Customs) to continue to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after May 9, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the constructed export price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Iscor	41.90
All Others	**41.90

**As Iscor was the only respondent in this investigation, we have used Iscor's margin as the all-others rate.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification Regarding Administrative Protective Order (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Comments and Responses

1. CEP Offset
2. Total Adverse Facts Available
3. Product Characteristics
4. Multiple Costs
5. Missing Costs
6. Inaccurate U.S. Sales Quantities
7. Missing Home-Market Sales
8. Inclusion of Non-Subject Merchandise in the Home-Market Sales File
9. Inaccurate Weight-Conversion Factors and Partial Adverse Facts Available

[FR Doc. 02–24801 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–816]

Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final determination of sales at less than fair value and negative final determination of critical circumstances.

SUMMARY: We determine that certain cold-rolled carbon steel flat products from Argentina are being, or are likely to be, sold in the United States at less than fair value, as provided in section 731 of the Tariff Act of 1930, as amended. In addition, we determine that critical circumstances do not exist for import of cold-rolled carbon steel flat products from Argentina.

We gave interested parties an opportunity to comment on the preliminary determination. Based on our analysis of the comments received, we have made certain changes for the final determination.

EFFECTIVE DATE: October 3, 2002.

FOR FURTHER INFORMATION CONTACT: Dave Dirstine, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4033.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department of Commerce (Department's) regulations are to the regulations codified at 19 CFR part 351 (April 2001).

Background

On May 9, 2002, the Department published its preliminary determination in the above-captioned antidumping duty investigation. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination and Negative Preliminary Determination of Critical Circumstances: Certain Cold-Rolled Carbon Steel Flat Products From Argentina,* 67 FR 31181 (May 9, 2002) (*Preliminary Determination*). See also *Notice of Initiation of Antidumping Duty Investigations: Certain Cold-Rolled Carbon Steel Flat Products From Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey and Venezuela,* 66 FR 54198 (October 26, 2001) (*Initiation Notice*).

Since the *Preliminary Determination,* the following events have occurred. On June 18, 2002, and July 29, 2002, the Department conducted a home-market sales verification and a U.S. sales verification, respectively, using standard verification procedures. Our verification results are outlined in the public versions of the verification reports (see home-market verification report dated July 26, 2002, and U.S. sales verification report from analysts to file, dated August 13, 2002).

We gave interested parties an opportunity to comment on the *Preliminary Determination.* On August 26, 2002, the petitioners [1] submitted their case brief. Siderar S.A.I.C.

[1] The petitioners in the concurrent antidumping duty investigations are Bethlehem Steel Corporation, LTV Steel Company, National Steel Corporation, Nucor Corporation, Steel Dynamics, Inc., United States Steel LLC, WCI Steel, Inc., and Weirton Steel Corporation. Weirton Steel Corporation is not a petitioner in the Netherlands case. Effective January 1, 2002, the party previously known as ''United States Steel LLC'' changed its name to ''United States Steel Corporation.''

(Siderar), respondent in this investigation, also submitted its case brief on August 26, 2002. The petitioners and Siderar submitted their rebuttal briefs on September 3, 2002. Siderar did not request a hearing. The petitioners submitted a request for a hearing on June 10, 2002, but withdrew their request on September 4, 2002.

With respect to scope, in the preliminary LTFV determinations in this and the companion cold-rolled steel investigations, the Department preliminarily excluded certain porcelain enameling steel from the scope of these investigations. See *Scope Appendix to the Notice of Preliminary Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Argentina,* 67 FR 31181 (May 9, 2002) (*Scope Appendix—Argentina Preliminary LTFV Determination*). On June 13, 2002, we issued a preliminary decision on the remaining 75 scope-exclusion requests filed in a number of the on-going cold-rolled steel investigations (*see* the June 13, 2002, memorandum regarding ''Preliminary Scope Rulings in the Antidumping Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea'' (*Preliminary Scope Rulings*), which is on file in the Department's Central Records Unit (CRU), room B–099 of the main Department building). We gave parties until June 20, 2002, to comment on the preliminary scope rulings and until June 27, 2002, to submit rebuttal comments. We received comments and/or rebuttal comments from the petitioners and respondents from various countries subject to these investigations of cold-rolled steel. In addition, on June 13, 2002, North American Metals Company (an interested party in the Japan proceeding) filed a request that the Department issue a ''correction'' for an already-excluded product. On July 8, 2002, the petitioners objected to this request.

At the request of multiple respondents, the Department held a public hearing with respect to the *Preliminary Scope Rulings* on July 1, 2002. The Department's final decisions on the scope-exclusion requests are addressed in the *Scope of Investigation* section below.

Scope of Investigation

For purposes of this investigation, the products covered are certain cold-rolled (cold-reduced) flat-rolled carbon-quality steel products. A full description of the scope of this investigation is contained in the *Scope Appendix* attached to the *Notice of Correction to Final Determination of Sales at Less Than Fair Value: Certain Cold-Rolled Carbon Steel Flat Products from Australia,* 67 FR 52934 (Aug. 14, 2002). For a complete discussion of the comments received on the *Preliminary Scope Rulings,* see the memorandum regarding ''Issues and Decision Memorandum for the Final Scope Rulings in the Antidumping Duty Investigations on Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Australia, Belgium, Brazil, France, Germany, India, Japan, Korea, the Netherlands, New Zealand, the People's Republic of China, the Russian Federation, South Africa, Spain, Sweden, Taiwan, Thailand, Turkey, and Venezuela, and in the Countervailing Duty Investigations of Certain Cold-Rolled Carbon Steel Flat Products from Argentina, Brazil, France, and Korea,'' dated July 10, 2002, which is on file in the CRU.

Critical Circumstances

In letters filed on December 7, 2001, and January 14, 2002, the petitioners alleged that there is a reasonable basis to believe or suspect that critical circumstances exist with respect to imports of cold-rolled steel from Argentina and other countries. On May 9, 2002, the Department published in the **Federal Register** its preliminary determination that critical circumstances do not exist for imports of cold-rolled steel from Argentina. See *Preliminary Determination* and critical-circumstances memorandum from Richard W. Moreland to Faryar Shirzad, dated April 26, 2002 (*Preliminary Negative Determinations of Critical Circumstances—Argentina*). A public version of this memorandum is on file in the CRU.

We received no comments from the petitioners or the respondent regarding our preliminary finding that critical circumstances do not exist for imports of cold-rolled steel from Argentina. We have not changed our determination and continue to find that critical circumstances do not exist for imports of cold-rolled steel from Argentina.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the ''Issues and Decision Memorandum'' (Decision Memo) from Richard W. Moreland, Deputy Assistant Secretary, to Faryar Shirzad, Assistant Secretary, dated September 23, 2002, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the Decision Memo, is attached to this notice as an Appendix. This Decision Memo, which is a public document, is on file in the CRU and is accessible on the Web at *http://ia.ita.doc.gov/frn.* The paper copy and electronic version of the Decision Memo are identical in content.

Changes Since the Preliminary Determination

Our calculations followed the methodologies described in the *Preliminary Determination,* except as noted below, and in the September 23, 2002, Decision Memo and final determination analysis memorandum.

We obtained missing unreported slitting-cost information at verification and have applied partial adverse facts available as advocated by the petitioners. See our response to Comment 2 of the Decision Memo.

We used depreciation adjustment data presented by the respondent to correct minor errors in its response on the first day of verification and we have not applied partial adverse facts available as asserted by the petitioners. See our response to Comment 3 of the Decision Memo.

We revised the interest expense and general and administrative expenses based on information we obtained at verification. See our response to Comment 4 of the Decision Memo.

For the *Preliminary Determination* we found one level of trade in the U.S. market and one level of trade in the home market. For this final determination, we found that there were two home-market levels of trade—a distributor level of trade and an end-user (or original equipment manufacturer) level of trade. We continue to find one level of trade in the U.S. market. In addition, we made a level-of-trade adjustment to normal value for export-price sales of one model for which there were no sales on the same level of trade in the home market. See our response to Comment 5 of the Decision Memo.

Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service (Customs) to continue to suspend liquidation of all imports of subject merchandise that are entered, or withdrawn from warehouse,

for consumption on or after May 9, 2002, the date of publication of the *Preliminary Determination* in the **Federal Register**. Customs shall continue to require a cash deposit or the posting of a bond equal to the weighted-average amount by which the normal value exceeds the U.S. price, as indicated in the chart below. These suspension-of-liquidation instructions will remain in effect until further notice. The weighted-average dumping margins are as follows:

Exporter/manufacturer	Weighted-average margin percentage
Siderar	27.18
All Others	[2] 27.18

[2] As Siderar was the only respondent in this investigation, we used Siderar's margin as the all-others rate.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will determine within 45 days whether these imports are causing material injury, or threat of material injury, to an industry in the United States. If the ITC determines that material injury, or threat of injury does not exist, the proceeding will be terminated and all securities posted will be refunded or cancelled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order.

Notification Regarding Administrative Protective Order (APO)

This notice serves as a reminder to parties subject to APO of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: September 23, 2002.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix—Comments and Responses

1. Indirect Tax Rebates (Reintegro)
2. Missing Production Costs at One Plant
3. Failure to Provide Depreciation Costs
4. Revision of Interest Expenses and General and Administrative (G&A) Costs
5. Level of Trade

[FR Doc. 02–24802 Filed 10–2–02; 8:45 am]

BILLING CODE 3510–DS–P

Federal Register

Thursday,
October 3, 2002

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 121, et al.
Corrosion Prevention and Control Program; Development and Implementation of Corrosion Prevention and Control Program; Proposed Rule and Notice

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 129, and 135

[Docket No. FAA–2002–13458; Notice No. 02–16]

RIN 2120–AE92

Corrosion Prevention and Control Program

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to require that the maintenance or inspection programs for all airplanes operated under part 121 of Title 14, Code of Federal Regulations, all U.S.-registered multiengine airplanes operated in common carriage by foreign air carriers or foreign persons under 14 CFR part 129, and all multiengine airplanes used in scheduled operations under 14 CFR part 135 include FAA-approved corrosion prevention and control programs. Such programs are needed because existing maintenance and inspection programs may not provide comprehensive, systematic measures to prevent and control corrosion. These proposals form a part of the FAA's response to legislation emanating from the Aging Aircraft Safety Act of 1991. These actions are intended to control the detrimental effects of corrosion and the resulting airplane structural material loss.

DATES: Comments must be received on or before April 1, 2003.

ADDRESSES: Comments on this proposed rulemaking should be mailed or delivered, in duplicate, to: U.S. Department of Transportation Dockets, Docket No. FAA–2002–13458, 400 Seventh Street, SW, Room Plaza 401, Washington, DC 20590. Comments may also be sent electronically to the following Internet address: *9-NPRM-CMTS@faa.gov*. Comments may be filed and/or examined in Room Plaza 401 between 10 a.m. and 5 p.m. weekdays expect Federal holidays.

FOR FURTHER INFORMATION CONTACT: Frederick Sobeck, Flight Standards Service, Aircraft Maintenance Division (AFS–300), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–7355.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed action by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this document also are invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in duplicate to the DOT Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Comments filed late will be considered as far as possible without incurring expense or delay. The proposals in this document may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this document must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. FAA–2002–13458.'' The postcard will be date stamped and mailed to the commenter.

Availability of Rulemaking Documents

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the document number of the item you wish to view.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/nprm.cfm?nav=nprm* or the **Federal Register**'s Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html*.

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

Background

Corrosion is a natural phenomenon that attacks metal by electrochemical action and converts the metal into a metallic compound, such as an oxide, hydroxide, or sulfate. Corrosion occurs because of the tendency for metals to return to their natural state. Corrosion, if left unchecked, will progressively degrade an airplane's strength until its structure can no longer sustain its design load.

In addition, a detrimental interaction occurs when both corrosion and metal fatigue are present. Metal fatigue is the initiation and propagation of cracks because of repeated stresses. Small amounts of corrosion may cause the formation of fatigue cracks by introducing areas of stress concentration. In turn, once the cracks begin, moisture and corrosion products can collect at the crack sites, accelerating both the corrosion and fatigue processes.

Although corrosion inhibitors and other protective coatings are applied to airplane metal surfaces during the manufacturing process, over time erosion by sand and/or rain and mechanical wear will remove the protective coatings. Therefore, in order to prevent corrosion, a constant cycle of cleaning, inspection, and application of corrosion inhibitors must be followed.

On April 28, 1988, an in-flight accident occurred when a large transport airplane lost approximately 18 feet of the upper fuselage. The National Transportation Safety Board (NTSB) investigation revealed that the probable cause of this accident was the failure of the operator to detect the presence of skin disbonding, with resulting corrosion and metal fatigue, that ultimately led to the separation of the aircraft's skin and structure. The NTSB observed numerous areas of corrosion on the accident airplane and on other airplanes in the operator's fleet. The NTSB noted that the operator did not have a programmatic approach to corrosion prevention and control. In its accident investigation report (NTSB/AAR–89/03; Recommendation No. A–89–59), the NTSB recommended that the FAA ''develop a model program for a comprehensive corrosion prevention and control program (CPCP) to be included in each operator's approved maintenance program.''

Prior to 1988, the FAA lacked compelling evidence that existing

maintenance and inspection programs were not controlling corrosion to a safe level. Although many airplane manufacturers had provided maintenance programs for corrosion prevention and control, the FAA saw no reason to mandate such programs.

After the 1988 accident, the FAA sponsored an aging fleet conference at which the Air Transport Association of America (ATA) and the Aerospace Industries Association of America (AIA) committed to identifying and implementing procedures to ensure continued structural airworthiness of aging transport category airplanes. As a result, an Airworthiness Assurance Task Force (AATF) was established that included aircraft operators, manufacturers, and regulatory authorities. An immediate objective of the AATF was to sponsor airplane model-specific working groups to identify aging fleet structural maintenance requirements. The working groups were tasked to: 1. Select service bulletins to be recommended for mandatory implementation; 2. develop baseline corrosion prevention and control programs; 3. review supplemental structural inspection programs; 4. assess repair quality; and 5. review maintenance programs.

Task 2 resulted in the FAA issuing Airworthiness Directives (ADs) that mandated specific corrosion prevention and control programs for the following 11 airplane models: the Airbus A–300, British Aerospace BAC 1–11, Boeing 707/720, 727, 737, and 747, Fokker F–28, Lockheed L–1011, and McDonnell Douglas DC–8, DC–9, and DC–10. The FAA issued the corrosion ADs for the 11 airplane models based on the finding that the initiation and spreading of corrosion in the metallic structures of those airplanes is an ''unsafe condition,'' as that term is used in part 39. The airplanes covered by the ADs incorporated CPCPs of the kind that would be required by this NPRM.

Partly in response to the 1988 accident, legislation was enacted to address aging aircraft issues. This broadly worded Aging Aircraft Safety Act of 1991 (AASA), re-codified now at 49 U.S.C. 44717, instructed the Administrator to ''initiate a rulemaking proceeding for the purpose of issuing a rule to assure the continued airworthiness of aging aircraft.'' The rule issued pursuant to the AASA must require:

- The Administrator to inspect air carrier aircraft, used in air transportation, and the maintenance records of those aircraft, to determine that the aircraft are in safe condition and properly maintained for operation in air transportation.
- The Administrator's inspection and records review as part of the ''heavy maintenance check'' of the aircraft.
- Each air carrier to make available each aircraft used in air transportation, and its records.
- Each air carrier to demonstrate that maintenance of the age-sensitive parts and components of each aircraft used in air transportation, has been adequate and timely enough to ensure the highest degree of safety.

The AASA also instructed the Administrator to establish a program to verify air carrier compliance with their FAA-approved maintenance programs, and a program to train FAA inspectors and engineers to conduct auditing inspections for corrosion and metal fatigue in those aircraft.

Thus, corrosion prevention and control fit within the relatively broad scope of the AASA. The main thrust of the AASA is addressed in the Aging Airplane Safety proposal, published in the **Federal Register** on April 2, 1999 (64 FR 16298). That proposal would require, among other things, damage-tolerance-based inspection programs for most air carrier aircraft used in air transportation.

This proposal would impose requirements to prevent the spreading of corrosion in all other airplanes operated under part 121, all other U.S.-registered multiengine airplanes operated under part 129, and all other multiengine airplanes in scheduled operations under part 135. In other words, most of the airplanes not currently covered by AD. By this proposal, the FAA has not made a finding that corrosion need not be addressed in the airplanes that are excluded in this proposal, i.e., airplanes of the affected models operated under parts 91, or 125, or operated on-demand under part 135. At this time, however, the FAA has not evaluated all of the kinds of requirements that could be imposed to address corrosion in those airplanes, or all of the costs that would be attributable to such requirements.

The current CPCP ADs and the adoption of this proposed rule would differ in noticeable ways. First, each AD requires a CPCP for the affected model of airplane, regardless of the part under which the airplane is operated. As explained further in this proposal, this proposal does not apply to airplanes operated under parts 91, 125, and airplanes operated on-demand under part 135.

Second, unlike the ADs, the rules proposed in this NPRM do not specify the detailed provisions, including special reporting requirements, that would be contained in an operator's FAA-approved CPCP. Nevertheless, the proposal provides that an acceptable CPCP would contain procedures to assure that, whenever corrosion exceeding Level 1 is found in any area, the operator notify the FAA and, in addition, implement an FAA-approved means of reducing future findings of corrosion in that area to Level 1 or better.

A measure of the effectiveness of a CPCP is the level of corrosion damage found on primary structure during repeat scheduled inspections. Level 1 corrosion is corrosion damage that occurs between successive inspections and is local and can be reworked or blended-out within allowable limits as defined by the manufacturer or the FAA. This definition provides the FAA and industry with a quantifiable measure for determining the effectiveness of the CPCP. The FAA believes that such monitoring and notification is important and necessary to achieve one of the goals of this proposal, i.e., the prevention of the unsafe condition of spreading metallic corrosion that prompted the 11 ADs discussed above in the fleet of newer airplanes.

Concurrently with this proposal, the FAA is publishing an advisory circular (AC), ''Development of Corrosion Prevention and Control Programs'' to assist small entities and other affected parties in developing CPCP programs that will be acceptable to the FAA. This AC would contain the detailed provisions necessary for a successful program. In soliciting comments on the draft AC, the FAA seeks comments on the development and implementation of corrosion prevention and control programs.

In this proposal, the FAA is proposing a single set of rules that would apply to all the specified types of airplanes used in air carrier service. This approach would be administratively preferable to ADs issued to specific airplane models and generally provides better notice to the public concerning the types of inspections and maintenance that will be required to prevent corrosion in air carrier airplanes.

A Typical CPCP AD

A typical CPCP AD requires the operator to incorporate a baseline CPCP into its maintenance or inspection program. The baseline CPCP, developed by the manufacturer for all operators of a particular model of airplane, consists of corrosion prevention and control tasks, definitions of corrosion levels, compliance times (implementation thresholds and repeat intervals) and

reporting requirements. After an operator has incorporated a baseline CPCP into its maintenance or inspection program, the ADs allow adjustment to the required repeat intervals of the CPCP, provided the maintenance program is controlling corrosion to an acceptable level. The FAA has determined that corrosion damage that occurs between successive inspections and is local and can be reworked or blended-out within allowable limits as defined by the manufacturer or the FAA, is an acceptable level of corrosion. These allowable limits of corrosion damage are defined as Level 1 Corrosion.

Existing Requirements

Sections 23.1529 and 25.1529 require that applicants for type certificates and changes to type certificates for normal, utility, acrobatic, commuter, and transport category airplanes prepare Instructions for Continued Airworthiness (ICA's) for those airplanes, as applicable. Appendix G to part 23 and Appendix H to part 25 currently specify the required content of those instructions for newly type-certificated airplanes. The requirements that applicants for type certificates (TC) prepare ICA's for their airplanes first became effective on October 14, 1980. ICA's were not required for airplanes type certificated before that date. Since January 28, 1981, any person who holds an airplane type certificate or supplemental type certificate (STC) for which the application was made after that date, is required to furnish at least one set of the ICA for each type of airplane to the owner upon its delivery, or upon issuance of the first standard airworthiness certificate, for each type of airplane, whichever occurs later. The holder of the TC or STC is also required to make the ICA available to any other person required to comply with terms of the ICA.

The ICA must include an airplane maintenance manual or a section to be included in the airplane maintenance manual, maintenance instructions, and a segregated and clearly distinguishable section titled the Airworthiness Limitations. The maintenance instructions must contain an inspection program that includes the frequency and extent of the inspections necessary to provide for the continued airworthiness of the airplane. Compliance with Appendices G and H requires the applicant to include maintenance schedules, and information required to apply protective treatments to the structure following the inspection. While the ICA provides owners and operators with useful information to assist them in preventing and controlling corrosion, they may not provide comprehensive, systematic measures for carrying out the inspections and necessary maintenance instructions.

Transport Category Airplanes

Under existing § 25.571, an evaluation of the strength, detail design, and fabrication must show that catastrophic failure due to corrosion will be avoided throughout the operational life of the airplane. Based on the evaluation, corrosion inspections or other procedures necessary to prevent catastrophic failure must be included in the Airworthiness Limitations Section of the ICA. Other corrosion inspections are included in the maintenance instructions of the ICA in accordance with Appendix H of part 25.

Small Airplanes and Commuter Category Airplanes

Requirements similar to those in § 25.571 apply to airplanes certificated to the damage tolerance requirements of § 23.573(b) and § 23.574. Similar to the transport category airplane requirements, any corrosion inspections of critical structure identified during the showing of compliance with those requirements must be listed in the limitations section of the ICA as provided in § 23.575. Other corrosion inspections are included in the maintenance instructions of the ICA in accordance with Appendix G of part 23.

The FAA has determined that these existing requirements have not always resulted in a comprehensive and systematic CPCP for either transport, small, or commuter category airplanes. This proposed rulemaking would specifically require a systematic CPCP for certain airplanes operating under parts 121, 129, and 135.

General Discussion of the Proposal

This proposed rule responds to the provisions of 49 U.S.C. 44717, which requires the Administrator to ''prescribe regulations that ensure the continuing airworthiness of aging aircraft * * *'' and is modeled after the CPCP ADs. As a result of requirements set forth in 49 U.S.C. 44717, the FAA proposes to prohibit the operation of certain airplanes in scheduled operations unless their maintenance or inspection programs include a CPCP. All airplanes operating under part 121, all U.S.-registered multiengine airplanes operating under part 129, and all multiengine airplanes conducting scheduled operations under part 135 would be affected. The airplanes affected by this proposed rule transport a significant portion of the passengers carried in scheduled passenger service and are the most prevalent airplanes operated in such service.

This notice does not propose requirements for rotorcraft or single-engine airplanes, nor does it propose requirements for on-demand passenger or cargo-carrying operations under 14 CFR part 135. In a future notice or notices, the FAA will propose aging aircraft requirements necessary to cover the operation of all the other aircraft used by operators to provide air transportation. For the purpose of developing those proposals, the FAA may consider the information (*e.g.* documents in the public docket) used to develop the rule proposed in this notice. It is possible that future proposals could be similar to the requirements proposed in this notice; however, because of the differences in the designs, operations, and maintenance of those aircraft, differences between this notice and the future proposals are likely.

The scope of this proposal includes the preponderance of the kinds of aircraft the Congress intended to cover under the Aging Aircraft Safety Act (AASA). By this notice, the FAA also solicits comments on the possibility or practicality of future requirements for CPCPs on aircraft not covered by this proposal.

Congress also instructed the Administrator to encourage governments of foreign countries and relevant international organizations to develop programs addressing aging aircraft concerns. Most foreign air carriers and foreign persons engaged in common-carriage operations have maintenance program requirements adopted by their governments. By including part 129 in this proposed rule, foreign air carriers and foreign persons operating U.S.-registered multiengine aircraft within or outside the United States would be required to include a CPCP in their maintenance programs. This action forms a portion of the FAA's response to the requirements in the AASA to help ensure the continued airworthiness of aging U.S.-registered airplanes operated worldwide.

Operator's Corrosion Prevention and Control Program

This proposal would require each operator to incorporate a baseline CPCP into its existing maintenance or inspection program. The operator can then modify the corrosion prevention and control tasks, and compliance times (implementation thresholds and repeat intervals), based upon service experience with its particular operation, so long as the operator's CPCP

maintains corrosion to Level 1. Each operator's CPCP should include procedures for assuring that each airplane added to the operator's certificate after its CPCP is approved has completed all overdue inspections and tasks before the aircraft is operated in passenger service.

Baseline Corrosion Prevention and Control Programs

A baseline corrosion prevention and control program is designed to control corrosion so that the damage does not exceed Level 1. Baseline CPCPs contain corrosion prevention and control tasks, definitions of corrosion levels, compliance times (implementation thresholds and repeat intervals) and procedures to modify the program when corrosion damage exceeds Level 1. The reporting requirements that are listed in the CPCP ADs would not be changed by this proposal. Current reporting requirements in parts 121, 129, and 135 are unchanged.

The baseline program is developed for a specific type design of airplane and is usually developed by the manufacturer. If the manufacturer does not provide a program that meets the requirements in this proposed rule, each operator would be required to develop a program and present it to the FAA for approval. One proposed method of developing a program is identified in proposed Advisory Circular XX-XXX.

The FAA is aware that the manufacturer or operators of some airplanes affected by this proposed rule may choose not to develop a CPCP. Airplanes that do not have a CPCP would not be eligible for operation under part 121, and certain airplanes would be prohibited from operating under parts 129 or 135 without a CPCP after the dates specified in the proposal. For airplanes affected by this proposal, a baseline program would need to be developed and any corrosion inspections due would have to be completed. Similar airplanes added to the operator's certificate, subsequently establishment of the baseline programs would need to have all overdue corrosion inspections completed prior to being eligible to enter operations affected by this proposal.

Implementation

This proposed rule would require a CPCP to be in place two years after the effective date of the final rule. The FAA realizes that for some airplanes, the implementation thresholds for certain areas will have been exceeded by the time the rule becomes effective. Therefore, the proposed rule contains a provision for areas that have exceeded their implementation thresholds prior to two years after the effective date of the final rule. This provision would require the operator to develop an implementation schedule that would result in the completion of all overdue corrosion prevention and control tasks no later than four years after the effective date of the final rule.

Section-by-Section Analysis

Section 121.376

Proposed paragraph (a) would specifically require each operator to incorporate an FAA-approved CPCP into its maintenance or inspection program within two years of the effective date of the rule.

Proposed paragraph (b) would specify that a baseline corrosion prevention and control program be designed to control corrosion so that the damage does not exceed Level 1.

Proposed paragraph (b) would also require that the CPCP include corrosion prevention and control tasks, the definition of Level 1 corrosion, compliance times (implementation thresholds and repeat intervals) and procedures to modify the program when corrosion damage exceeds Level 1.

Proposed paragraph (c) would contain a provision for airplanes that have exceeded their implementation thresholds prior to two years after the effective date of the final rule. This provision would require each operator of such an airplane to develop an implementation schedule that would result in the completion of those corrosion prevention and control tasks no later than four years after the effective date of the final rule.

Section 121.376a

Proposed § 121.376a would define Level 1 corrosion, discussed in further detail below.

Section 129.1

The proposal would revise paragraph (b) to add a reference to § 129.35.

Section 129.24

Proposed § 129.24 would define Level 1 corrosion, discussed in further detail below.

Section 129.35

Proposed paragraph (a) would require each foreign air carrier or foreign person that operates an U.S.-registered multiengine airplane in common carriage to incorporate a FAA-approved CPCP into the maintenance or inspection program for each such airplane within two years of the effective date of the rule.

Proposed paragraph (b) would specify that a baseline CPCP is designed to control corrosion such that the damage does not exceed Level 1.

Proposed paragraph (b) would also require that the CPCP include corrosion prevention and control tasks, the definition of Level 1 corrosion, compliance times (implementation thresholds and repeat intervals) and procedures to modify the program when corrosion damage exceeds Level 1.

Proposed paragraph (c) would contain a provision for airplanes that have exceeded their implementation thresholds prior to two years after the effective date of the final rule. This provision would require each operator of such an airplane to develop an implementation schedule that would result in the completion of those corrosion prevention and control tasks no later than four years after the effective date of the final rule.

Section 135.424

Proposed paragraph (a) would require each operator of a multiengine airplane in scheduled service to incorporate a FAA-approved CPCP into the maintenance or inspection program for each such airplane within two years of the effective date of the rule.

Proposed paragraph (b) would specify that a baseline CPCP is designed to control corrosion such that the damage does not exceed Level 1.

Proposed paragraph (b) would require that the CPCP include corrosion prevention and control tasks, the definition of Level 1 corrosion, compliance times (implementation thresholds and repeat intervals) and procedures to modify the program when corrosion damage exceeds Level 1.

Proposed paragraph (c) would contain a provision for airplanes that have exceeded their implementation thresholds prior to two years after the effective date of the final rule. This provision would require each operator of such an airplane to develop an implementation schedule that would result in the completion of those corrosion prevention and control tasks no later than four years after the effective date of the final rule.

Section 135.426

Proposed § 135.426 would define Level 1 corrosion.

Definitions

The purpose of a corrosion prevention and control program is to control corrosion such that the damage does not exceed Level 1. A measure of the effectiveness of a CPCP is the level of corrosion damage found on primary

structure during repeat scheduled inspections. In order for the FAA to have some measurable quantity by which to gauge the effectiveness of an individual operator's CPCP, the following definition applies:

Level 1 Corrosion is (1) corrosion damage occurring between successive inspections that is local and can be re-worked/blended-out within allowable limits as defined by the manufacturer or the FAA; (2) corrosion damage that is local but exceeds allowable limits and can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet; or (3) corrosion damage that operator experience over several years has demonstrated to be only light corrosion between successive prior inspections but that the latest inspection shows that cumulative blend-outs now exceed the allowable limits. Level 2 and 3 corrosion along with specific procedures to be followed when Level 1 is exceeded will be included in the draft AC that will be available when this proposal is published.

An operator's CPCP would contain corrosion prevention and control tasks, the definition of Level 1 corrosion, compliance times (implementation thresholds and repeat intervals) and procedures to modify the program when corrosion damage exceeds Level 1. The following definitions apply:

Corrosion Prevention and Control Task: A corrosion prevention and control task usually consists of: 1. Removing equipment and interior furnishings to allow access to the area, 2. cleaning the area, 3. conducting inspections of all areas (Note: nondestructive inspections or visual inspections may be necessary), 4. removing all corrosion, evaluating damage, and repairing damaged structure, 5. unblocking drainage holes, 6. applying corrosion preventive compound(s), and 7. reinstalling dry insulation blankets.

An Implementation Threshold for a given area is the airplane age (years since the initial issuance of the certificate of airworthiness) at which the CPCP should be implemented in the affected area.

A Repeat Interval is the calendar time period between successive corrosion task accomplishments.

Regulatory Impact

Executive Order 12866 and DOT Regulatory Policies and Procedures

Economic Evaluation Summary

Proposed changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (19 U.S.C. 2531–2533) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act also requires the consideration of international standards and, where appropriate, that they be the basis of U.S. standards. And fourth, the Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation.

In conducting these analyses, the FAA has determined this rule:

(1) Has benefits which do justify its costs, is a ''significant regulatory action'' as defined in the Executive Order and is ''significant'' as defined in DOT's Regulatory Policies and Procedures;

(2) Would have a significant impact on a substantial number of small entities;

(3) Would not constitute barriers to international trade; and

(4) Does not impose an unfunded mandate on state, local, or tribal governments, or on the private sector. These analyses, available in the docket, are summarized below.

Description of Costs. The primary costs of the proposed rule would be borne by those scheduled operators of multiengine airplanes not currently subject to a mandatory corrosion prevention and control program. Additional costs would also be incurred by manufacturers who participate in the assessment and development of the corrosion programs for the affected airplane models, but this evaluation assumes that all such costs would eventually be passed through to the operators. The FAA itself would incur relatively minor costs for reviewing and approving (1) the corrosion prevention and control programs, and (2) the incorporation of these new procedures into the existing maintenance and inspection programs.

Note that the attributed costs of this proposal do not include the expense of making major repairs or modifications that may be found necessary during the inspections mandated by this proposal. While the agency recognizes that such repairs may constitute a significant expense, their costs are not attributed to this proposed rule because existing FAA regulations require that repairs be made as found to be necessary to assure the continued airworthiness of the airplane.

The methodology used in the evaluation first computes the costs that would be incurred if it were economically viable for all of the airplanes in the affected fleet to meet the requirements of the proposed rule. Based on these costs, and their comparison to the approximate fleet value, the methodology later estimates the numbers of airplanes and models where compliance would not actually be economically viable, and where instead, the airplanes would likely be retired from scheduled service.

Approximately 7,100 airplanes were identified as being subject to the proposed rule. For the majority of these airplanes, the proposal would not generate any additional costs, since the subject airplanes already comply with airworthiness directives that parallel the proposal. Some 2,900 airplanes would be affected by the proposal in one manner or another, and as such would incur costs.

In projecting the cost of the proposed rule, development cost factors were estimated for each airplane model. These factors, ranging from zero to one, represent the proportion of full CPCP development costs that would be incurred for each airplane model group. The factors account for the fact that full compliance programs are in place for some models (factor = 0) and that the development costs for some other models would be reduced to less than 1 either due to their similarities to other models or because some models have partially compliant programs. The factors also account for the fact that airplanes certificated under existing § 25.571, amendment 45 or later, are already required to undergo an evaluation of their strength, detail design, and fabrication to show that failure due to corrosion will be avoided throughout the operational life of the airplane.[1] For these newer models, development factors of .1 were assigned to represent the estimated additional effort (equal to one-tenth of a completely incremental CPCP evaluation and development) that would be necessary to comply with the proposed rule. Taken together, the

[1] Similar requirements exist under § 23.574 for commuter category airplanes, and damage tolerance requirements related to the effects of corrosion for both composite and metallic airframe structure are found in §§ 23.573(a) and (b), respectively.

various cost factors produce an estimated cost equivalence of approximately 47 full CPCP development efforts among the 88 model groups that were identified.

The cost methodology employs a three step functional estimate of the time needed to develop each CPCP. First, the nominal number of development hours is estimated as a function of the average maximum takeoff weight (MTOW) for each model.

Eq. 1. Hours = 2,296 + (.04 x MTOW)

This equation was derived from a two-point linear plot of the estimated costs expended to develop the CPCP for two existing airplane models (the DC–9 and the Piper Navajo). The results of the Eq. 1 estimates were then multiplied by the development factors to account for the reduced development efforts for similar or partially compliant models described above. Finally, a third factor (described below) was applied to account for the possibility that a CPCP would not be developed for an airplane model where it was reasonably expected that the airplanes of that model would have been retired before the effective period of the proposed rule.

The hours for development were converted into cost estimates for each model by applying a fully burdened engineering cost rate of $95 per hour for CPCP development. This produced a cost per model ranging between $32,000 and $427,000. The estimated development cost for all models totals to $10.4 million, or $7.9 million expressed in present value terms.

It was also necessary to estimate the FAA's costs to review and approve the CPCP's described above. The evaluation employs a simple factor of 80 hours of review per newly developed CPCP, at a burdened cost rate of $55 per hour. This produces estimated costs of $4,400 per model and for the affected fleet the total cost is $246,400, or in present value terms $141,171.

Similar to the ''development'' cost factors described above, the evaluation also employed ''implementation'' cost factors for each model. The implementation factors also range between zero and one, and constitute the expected proportions of full incremental implementation effort that would be caused by the proposal for each model. In addition to accounting for the existence of fully or partially compliant CPCP's themselves, the implementation factors also account for those cases whereby an industry developed CPCP may exist for a given airplane model, but either its implementation is not currently mandated by FAA direction, or the associated work level would be increased by this proposal. The evaluation projects the work load equivalence of full incremental implementation in 60 of the 88 affected model groups.

The first stage of implementation for the proposed rule would be incorporating the model-specific CPCP into an operator's maintenance or inspection program. Data were cross-tabulated to determine the distribution and number of unique combinations of operators and subject airplane models to estimate the number of new CPCP's that would need to be incorporated into existing operator programs (487 operator-model combinations.) In turn, the expected cost of these CPCP incorporations for the operators of each model were computed by multiplying the number of operator-model combinations, by an estimated 40 hours incremental work per incorporated program, and by a unit labor rate of $55 per hour. The total expected cost of this work, across all operator-model combinations, sums to $609,400, or $434,494 in present value.

Similar to their review of the actual CPCP's, FAA personnel would also need to review and approve the incorporation of the CPCP's into the existing maintenance and inspection programs of the operators. The calculation of these costs parallels the operator cost calculation from above with the exception that only 8 hours of review work would be necessary per incorporation. These ''second'' FAA review costs sum to $121,880, or $79,683 in present value. FAA review costs are expected to be incurred in 2003.

Next, the calculation of the actual operator inspection activities that would result from the CPCP's are computed. The evaluation assumes that the proposed rule would become final at the end of the year 2000, that the required new CPCP's would be developed by the end of the year 2002, and that inspections and maintenance, where scheduled, would start in the year 2003. The evaluation uses a 20-year study period (from the effective date of the rule) and, therefore, assesses expected costs through the year 2020. The inspections for any particular airplane would not begin before the time specified in the CPCP for that model, and the initiation of work under the CPCP's would vary by airplane model and by individual airplane structure. This evaluation assumes that the preponderance of corrosion related inspection and maintenance work under the proposed rule would begin in the tenth year of an airplane's operation. The evaluation further assumes that the airplanes under this proposal would not be retired from service until age 35.

The four parameters described above are used to estimate the projected number of years that inspections under this proposal would be conducted within the study period. For each airplane model, this period is calculated as the intersection of: (1) The years included within the study period, and (2) the years where the average age of the affected airplanes would be between 10 and 35 years old.

The projected, average number of years that each model would be inspected under the program multiplied by the number of affected airplanes in each model produces the expected airplane-years of program coverage under the proposal, by model. This figure, in turn, is multiplied by the projected number of hours of work per year that the CPCP would require, and by the cost of labor per hour for that work, to produce the estimated cost of implementation. The assumed unit cost rate is $55 per hour. The projected annual number of work hours for each airplane under the proposal is computed as a function of airplane size (maximum takeoff weight).

Eq. 2. Hours = 88 + (.0006 × MTOW)

This functional estimate was derived from a linear regression of the airplane weights and the annual work-hour projections included in 13 CPCP airworthiness directives (the original eleven plus two subsequent directives for the Casa C–212 and the Fokker F–27) mandating industry developed corrosion programs. The ''hours per airplane per year'' results are the product of the functional estimate in Equation 2, above, multiplied by the implementation factors described previously. Finally, the projected inspection costs over the study period are computed as the product of: (1) The numbers of airplane-years of coverage under the program, (2) the work hours per airplane per year, (3) a unit cost factor of $55 per hour for the inspection and maintenance work, and (4) a factor of 1.2 to account for the 20 percent overhead of paperwork and record keeping. These computations forecast a total of $155 million ($64.5 million in present value) in inspection costs through the year 2020.

In addition to the actual costs of inspecting the airplanes, costs can also be attributed to the incremental downtime that would be necessitated by the work required under the proposal. The evaluation assumes that each 40 hours of work necessitated by the CPCP

requirement would require 1 additional day of airplane downtime. The projected additional down-days are computed as the product of: (1) The number of airplane years in the program, (2) the work hours per airplane per year, and (3) the assumed unit factor of 1 down-day per 40 hours of added work. Under these assumptions, the evaluation projects 58,658 days of additional downtime for the affected fleet throughout the twenty-year study period as a result of the work attributed to the proposal.

The economic valuation of this downtime was computed under the assumption that the average productive return on capital is equal to 7 percent of the value of that capital, per year. Accordingly, the downtime costs were calculated as the product of: (1) The number of additional downtime days that would be required, divided by 365 days per year, (2) the estimated economic value of the fleet for each model, calculated at the median program year for that model, and (3) the 7 percent per year assumed rate of return on capital. These costs total $21.5 million, or in terms of present value $8.6 million.

Next, the present values (7 percent discount rate) of the four component industry costs were calculated. For computational expediency, the present value calculations assume that all development costs occur in the year 2002, operator incorporation costs occur in the year 2003, and both the inspection and downtime costs occur in the median year of the inspection program for each model. The present value of the total expected cost of the proposed rule to industry is $81.5 million, not including the FAA review costs described earlier.

PRESENT VALUE COST TO THE INDUSTRY

Development cost	Operator cost	Inspection cost	Downtime cost	Total Industry cost
$7,913,985	$434,494	$64,524,942	$8,626,515	$81,499,936

As noted in the introductory remarks of the cost section, the calculations described above assume that all of the subject airplanes would comply with the CPCP requirements of the proposed rule. At this point, however, the evaluation recognizes that it may not, in fact, be economical to develop and implement a CPCP for some older airplane models with very few subject airplanes. In order to account for this possibility, the evaluation compares the expected industry costs of the rule with the estimated fleet values of the affected models. For 11 models, the program costs are projected to be prohibitive and the expected compliance costs for the model are removed from the program implementation costs, and instead, a reduction of 50 percent of the value of the airplanes in that model is assigned as the attributed cost of the proposed rule for that model. Under this scenario, the present value costs to industry of the proposed rule would consist of $78.7 million in implementation costs and $1.3 million in costs resulting from reductions in airplane value due to a forecast economic inability to comply with the proposal. The total present-value cost of the proposed requirement to industry is projected at $80.0 million. The present value of the FAA cost for review is estimated at $220,885.

In addition to the proposed requirements for existing airplane models, the proposal would also require baseline corrosion prevention and control programs for future, newly certificated airplane models that would likely be marketed for scheduled passenger operations. For the purpose of example, the evaluation assumes one new certification per year between the effective date of the proposed rule and the end of the evaluation study period. In order to represent the likely sizes of the airplanes that might be certificated, the existing airplane models evaluated above were sorted by maximum takeoff weight, and were grouped into 18 classifications. The average weight of the airplanes in each of these 18 classes was then computed to represent the likely size of airplanes that would be certificated in each of the 18 years of the study period. In an effort to remove the bias of the order in which the various size airplanes were presumed to be certificated over time, the 18 airplane weight classes were assigned randomly across the 18 study years.

As noted above, the existing certification standards for all part 25 models and for certain part 23 models (commuter category and composite materials airplanes) require that future airplane models undergo an evaluation of their strength, detail design, and fabrication to show that failure due to corrosion will be avoided throughout the operational life of the airplane. As previously described, a development factor of .1 was assigned to the existing airplane models that were certificated to these standards, and in a parallel fashion, one-tenth of a full development cost is also assigned to the affected future airplane models. It should be noted that the existing certification procedures that would cause this reduced incremental impact are not required for metallic (non-composite material) airplanes in the normal, utility, or acrobatic categories for part 23. The evaluation assigns to these airplanes (weighing 12,500 pounds or less) a CPCP factor of .5, which recognizes that: (1) In the absence of this rule, these airplanes would not be substantially compliant with a CPCP requirement, but (2) substantial savings (one-half) in CPCP development would be realized as the development of the corrosion program would be included in the development of the airplane itself, rather than retroactively considered for an existing model.

The evaluation also recognizes that not all future airplane models will likely be marketed or used for scheduled passenger operations. In the absence of model-specific information, the evaluation assumes that future models under 6,000 pounds (2 of the 18 models considered here) would not incur additional costs as a result of this rule.

Returning to the computations, the estimated hours necessary to develop a CPCP for each airplane model in the example forecast were computed using the same formula that was used above (Eq 1; Hours = 2,296 + (.04 × MTOW)) with the result being multiplied by a factor of either .1 or .5 depending, respectively, on whether the airplane model was above or below 12,500 pounds. Again, parallel to the previous computations, the development costs were computed by multiplying the expected development hours by an engineering labor rate of $95 per hour. Similarly, the expected FAA review costs were computed as 80 hours of review per CPCP, multiplied by a unit labor factor of $55 per hour. Finally, the industry and FAA costs were combined for a total projected development and review cost of $1.3 million. The present values of these costs sum to $563,835.[2]

[2] This evaluation does not address the ''inspection'' portion of the costs that would result for these future models since, within the study period, very few airplanes would be certificated and produced, and then age to the point where the

In summary, over the twenty-year study period of this analysis, the proposed CPCP operating requirement for existing certification models is projected to cost $80.0 million to the industry and $221 thousand to the FAA (all costs in present value.) For newly type certificated models, the proposed rule is projected to cost $534 thousand to the industry and $30 thousand to the FAA.

Description of Benefits. The purpose of this rulemaking is to assure that corrosion does not degrade the airworthiness of affected air carrier airplanes. The corrosion prevention and control program contained in this proposal originates, in part, from the recommendations following the investigations of the Aloha Boeing 737–200 accident on April 28, 1988 when 18 feet of upper fuselage separated from the airplane in flight. The National Transportation Safety Board determined the probable cause of that accident was that corrosion and metal fatigue led to separation of the airplane's skin and structure.

All metal airframe structures are vulnerable to corrosion and older aircraft are much more likely to experience corrosion than newer airplanes. Corrosion is a natural process and occurs because of the tendency of metals over time to return to their original state. Maintenance and inspection records reveal that the presence of corrosion is more prevalent and pervasive in older aircraft. A review of the annual total of the number of listings in the Service Difficulty Reports involving corrosion over a subset of U.S. commercial airplanes provides a sense of the magnitude of the problem.

NUMBER OF SERVICE DIFFICULTY REPORTS INVOLVING ''CORROSION''

[1990–1997]

Aircraft type	Year of occurrence							
	1990	1991	1992	1993	1994	1995	1996	1997
B–727	2293	1746	3126	2786	2874	2520	2308	2350
B–737	536	521	928	1003	1099	906	868	1223
B–747	523	222	433	441	228	422	522	899
DC–9	564	436	375	732	657	1197	1104	1037
DC–10	117	78	217	122	281	111	364	602
MD–80	4	0	14	21	44	14	5	28
A–300	11	18	32	37	10	17	109	184
Total	4048	3021	5125	5142	5193	5187	5280	6323

The problem of corrosion is that it is both prevalent and destructive. Multiple Site Damage (MSD) is an undesirable condition caused by wide spread cracking of an airplane structure. R. Plelloux, *et al,* in ''Fractographic Analysis of Initiation and Growth of Fatigue Cracks at Rivet Holes writes ''In the case of MSD, fatigue cracks are reported to initiate at rivet holes in the fuselage lap joints after the epoxy bond failed as a result of corrosion in high humidity environments * * * the cracks grow to a length of approximately 6 to 8 mm (.25 inches to .30 inches) on each side of the rivet, before fracture by tensile instability. Note that rivets (on the airplane skin) are spaced an inch apart center to center. Crack growth in service has been reported to occur over 20,000 to 40,000 cycles.'' Thus corrosion can cause multiple cracks around a rivet. When the cracks reach a length of .25 to .3 inches fracture by tensile instability occurs. Cracks have been reported in aircraft with much fewer cycles than those recently upgraded from Stage 2 to Stage 3 standards in the last ten years.

Corrosion's detrimental effects are not limited to rivet holes. Corrosion decreases the size of structural members and can also have bad synergisms with factors leading to early cracking. When a fatigue crack reaches a corroded section the growth rate of the crack increases by a factor of 3 (J.P. Chubb, *et al,* ''The Effect of Exfoliation Corrosion on the Fatigue Behavior of Structural Aluminum Alloys''). The NTSB report to the FAA on the Aloha Boeing 737 accident cited finding corrosion in the throttle cables (in the leading edge). When the appropriate cable sections were removed from the aircraft and inspected there were indications of corrosion and this corrosion likely weakened the cables so that they separated at lower than design load. Corrosion was present for the entire length of that portion of the cable routed through the leading edge.

Since different sources may use slightly different definitions, for charity, several important definitions are now identified. The definition of multiple site damage is a source of widespread fatigue damage characterized by the simultaneous presence of fatigue cracks in the same structural element (*i.e.*, fatigue cracks that may coalesce with or without other damage leading to a loss of required residual strength). Widespread fatigue damage (WFD) in a structure is characterized by the simultaneous presence of cracks at multiple structural details that are of sufficient size and density whereby the structure will no longer meet its damage tolerance requirement (*i.e.*, to maintain its required residual strength after partial structural failure). Multiple element damage (MED) is a source of widespread fatigue damage characterized by the simultaneous presence of fatigue cracks in similar adjacent structural elements.

The Boeing 737 lap splice design originally required a good bond for load transfer. Environmental degradation caused the bond to deteriorate to the point where all of the load transfer ended up transferred through the fasteners, which were never designed to take that load. MED can also result from corrosive environments as well.

Benefits: A Risk Assessment. The FAA employed GRA,[3] Inc. to provide a risk assessment to help make determinations regarding the likelihood of aviation accidents related to corrosion. Under this contract, GRA qualitatively identified and characterized the types of

inspections from a CPCP would be prevalent. Furthermore, the present values of these few, out-year expenses would be negligible relative to the other costs of this proposal.

[3] ''CORROSION PREVENTION AND CONTROL RISK ANALYSIS'', FAA Contract No. DTFA01–93–C–00066, Work Order 52, Prepared by GRA, Incorporated, May 12, 1999. A copy of this document is filled in the docket.

potential corrosion hazards faced by aircraft and developed a method to assign quantitative risk evaluation.

For their analysis, GRA relied upon the National Transportation Safety Board (NTSB) Aviation/Incident Database. The NTSB database contains detailed information on over 37,000 accidents that have been catalogued since 1985; it includes a ''sequence of events'' history for each accident that describes the events leading up to an accident. A broad search of the 37,000 NTSB accidents resulted in a total of 1,551 accidents that were examined in detail.

The FAA Incident Data System (AIDS) was used to help assess the impacts of the Airworthiness Directives issued in the early 1990's. The FAA Service Difficulty Reporting System (SDRS) assisted by providing information assessing the incident and severity of the corrosion problem, as well as information of the effectiveness of current safety programs. GRA found it difficult to link incident and service difficulty reports with observed or anticipated changes in accident or incident rates. As a result, GRA took a conservative approach by not attempting to quantify benefits using either AIDS or SDRS.

The methodology employed by GRA is known as ''event tree'' analysis. Event tree analysis is used to characterize a chain of events leading to accidents under a variety of circumstances. This methodology has been used successfully in other environments where, as with aircraft, the probabilities of occurrence are very small.

Event trees are defined by:

- An initiating event
- A further chain of events related to ''safety functions'' which represent aircraft system responses or operator actions when a particular event occurs
- A terminating event
- Estimation of success and failure probabilities at relevant nodes in the event tree

An event tree should define a comprehensive set of accident sequences that encompass the effects of all possible accidents involving the aircraft. These trees begin with the initiating event, or the starting point. Following the initiating event, the set of events related to safety functions, which end with the terminating, event is specified. With the event tree constructed information from the NTSB, 1,551 accidents were used to populate (provide probability estimates) the tree.

Event trees with corrosion-induced initiating events were defined based on these records for the following ten aircraft systems:

- Flight control surfaces/attachments
- Flight control system-internal
- Landing gear
- Fuselage forward
- Fuselage center
- Fuselage aft
- Fuel system
- Nacelle/Pylons
- Engines
- Electrical systems and wiring

The subsequent events, which occur after the initiating event, were defined with the following generic sequence:

- Operator error in addressing/mitigating the initiating event
- Failure of operator to recover after initial failure to address/mitigate
- Failure of flight control function
- Failure of operator to recover flight control function
- Failure of landing gear during take-off or landing
- Failure of operator to recover landing gear function

Beginning with the initiating event probability, each subsequent event probability is multiplied across each branch. The multiplication of events along each branch results in the probability of an outcome (or terminating event). Summing the terminating event probabilities, which end in damage, equals the probability of a corrosion-related accident by aircraft system. GRA's Table 2 with the estimated corrosion-related accident rates by aircraft system is reproduced below.

ESTIMATED CORROSION-RELATED ACCIDENT RATES BY AIRCRAFT SYSTEM

Aircraft system	Rate per 1,000,000 operations
1. Flight Control Attachments	6.53 E–02
2. Flight Control System (internal)	7.51 E–02
3. Landing Gear	1.89 E–01
4. Fuselage Forward	9.60 E–03
5. Fuselage Center	1.97 E–02
6. Fuselage Aft	2.05 E–03
7. Nacelle/Pylons	2.63 E–02
8. Fuel Systems	1.94 E–02
9. Engine	2.15 E–01
10. Electrical Wiring	8.80 E–02
Total	7.01 E–01
Skin-Related Only (1, 4, 5, 6, 7)	1.23 E–01

These probabilities of occurrence then need to be translated into numbers of accidents. Since the probabilities are rates per one million operations, estimates of future operations were needed. GRA computed the total take-offs and landings at U.S. airports from the May 1996 Official Airline Guide (OAG). This estimate is conservative as it excludes U.S. aircraft performing foreign operations. The initial estimate of affected operations was 23,231,976 for 1996.

GRA then excluded aircraft already subject to existing ADs and discounted the number of operations for other aircraft subject to other overlapping directives and rules. After scaling down the total number of operations, the adjusted estimate was 7,150,932 U.S. operations that would be affected by the proposed rule. To this adjusted OAG base, GRA applied the growth rate in FAA airport operations for air carriers and air taxi/commuters through the year 2008. By 2008, the number of affected operations rises to 9,133,300. Based upon the GRA databases and methodology, in the absence of this rule or other preventative action, it is estimated that over the period of 1999 through 2008 ten accidents due to corrosion are likely to occur in the part 121, 129 and 135 fleets.

More than 27 percent of the airplanes subject to this proposal are already 20 years old or older; 7 percent are over 30 years old; and 1 percent of the airplanes are over 40 years old. The number of airplanes in air carrier service operating beyond their expected life is growing larger. As airplanes age, the likelihood of corrosion increases. Corrosion causes the formation of cracks and accelerates the growth of existing cracks. Thus corrosion is an identified problem presenting a growing threat to aviation safety. Experience has demonstrated that, under existing maintenance and inspection procedures, the FAA cannot assure the continuing airworthiness of these airplanes. This constitutes an unacceptable risk to air transportation.

The FAA has extensively deliberated on how to mitigate this risk. Technical experts and academic leaders were consulted. Based upon these considerations and deliberations, the FAA believes that the corrosion prevention and control procedures proposed in this rule are the best approach to assure the continued protection of the subject fleet from corrosion damage that could impact safety.

The primary benefit of this rule is increased aviation safety through assurance that the affected airplanes are free from dangerous corrosion. As has been shown, service difficulty reports of corrosion are increasing, and without this, or a similar rule, the FAA is convinced that unchecked corrosion will cause increasing numbers of future accidents. A secondary benefit from

minimizing corrosion is to extend aircraft service life. In response to a corrosion-related accident, the FAA is likely to ground similar aircraft until it can be assured of their airworthiness. As more accidents occur to different aircraft types, or if the inspections show corrective measures can not restore airworthiness, the FAA may determine that aircraft of a certain age need to be retired from the air carrier fleet. Consequently, in addition to expected safety benefits, society would benefit by a longer utilization of the affected aircraft, thereby reducing the cost of air transportation. The FAA has attempted to quantify the safety benefits and discusses the extended life benefits in qualitative terms.

Safety Benefits. Based on GRA's risk assessment analysis, ten accidents due to corrosion could occur within the affected fleet during the ten year period 1999 through 2008. Since the period of analysis for this rule is 20 years, GRA's estimate has been extended by an additional ten years. A straight-line extrapolation based on the additional ten years of operations growth results in an estimate of about 25 accidents over a 20-year period. In this analysis such a straight-line forecast is viewed as a lower-bound estimate, because the GRA analysis did not factor in the joint problem an aging fleet coupled with unchecked metal corrosion increases the rate-of-risk over time. In order to provide an upper bound estimate, a simple, conservative methodology can be used. The actual probability distribution for corrosion-related accidents in the affected fleet is not known. A normal distribution, however, provides a close approximation of a number of other distributions. To be very conservative in this analysis, the FAA assumes that all affected aircraft remain in operation until a corrosion-related accident terminates their service. Under the assumption that the ten accidents from 1999 to 2008 belong to the left tail of a normal distribution of future corrosion-related accidents for the entire 2,900 affected aircraft, then it can be shown that these 10 accidents are more than 2.45 standard deviations from the mean. Assuming that these observations are 2.45 standard deviations from the mean, then 99.3 percent of the fleet would not have a corrosion-caused accident by 2008. This distribution has approximately a twenty-five year standard deviation. Such a distribution would have more than half of these aircraft still without a corrosion-caused accident fifty years from now. If this methodology can be accepted as providing a reasonable estimate of the upper bound of accidents, then in the absence of this rule, slightly more than 50 corrosion-related accidents are estimated to occur in the study period. This, in turn, provides a range of between 25 to 50 corrosion-caused accidents that may occur in 20 years.

As previously discussed, this proposed rule is directed toward the smaller air carrier aircraft. From NTSB data, GRA estimated that the average casualty counts per accident were 1.100 minor injuries, 0.474 serious injuries, and 1.605 fatalities. As a baseline estimate to compare safety benefits with costs, the FAA estimates that the value of: $38,500 to represent avoiding a minor injury, $51,800 to represent avoiding serious injury, and $2.7 million to represent avoiding a statistical fatality. Based on these values the expected benefit of avoiding one such accident today is $4.6 million, excluding the loss of the airframe, investigation, and ground damage. The FAA believes a conservative benefit estimate of avoiding such an accident is at least $5 million with a reasonable upper bound value of $6 million. Using the lower $5 million estimate and assuming that accidents for the are uniformly distributed over time, then in the thirteenth year the present value benefits of the accidents prevented roughly equals the cost of the proposed rule (at that time the number of accidents equals 34). Thirty-four accidents falls between the upper and lower bound estimates, and is considered a reasonable number that could occur.

This breakeven calculation assumes the proposed rule to be 100 percent effective in preventing these accidents. The FAA can not determine a priori the effectiveness of the proposed rule, but can provide a reasonable effectiveness range and the associated range of benefits. Assuming that the rule would prevent 40 to 80 percent of the expected 25 to 50 accidents, then the rule could be expected to prevent between 9 accidents (40 percent $\times$ 25 accidents) to 40 accidents (80 percent $\times$ 50 accidents). In the case of the lower bound estimate of 9 accidents, for the present value safety benefits to equal the cost of the rule, the value of an avoided accident would need to increase approximately fourfold. Such an increase is entirely feasible since the assumed 1.6 averted fatalities per accident is conservative. Included in the potentially affected fleet are 178 Beech 1900 airplanes each with 19 passenger seats. If just 2.4 of the prevented accidents are Beech 1900 airplanes with a 75 percent load factor, then the present value benefits exceed the present value of costs.

Exactly how many corrosion-related accidents will occur, which airplanes would suffer such an accident, and how effective the proposed rule would be can not be determined a priori. The FAA risk assessment estimated that this proposed rule would help to avert 25 to 50 accidents. The rule needs only to be effective enough to prevent 2.4 Beech 1900 accidents with 75 percent of the available seats occupied. It is known with certainty that corrosion currently exists in the fleet and if left unchecked will lead to accidents. Based upon this knowledge, and the estimates contained in this analysis, the FAA concludes that the benefits justify the costs of this proposed rule.

Unquantified Benefits. The FAA proposed rule would require scheduled corrosion inspections sooner than the much more costly emergency inspections that would follow a corrosion-caused accident. It is more economical and efficient to correct an unsafe condition proactively, than after an accident makes it clear that corrective action is past due and immediate measures must be taken. Performing the proposed procedures by this rule would allow air carriers to schedule inspections and repairs in a planned, orderly, least cost manner without disrupting aircraft service time. In cases where corrosion is occurring, this proposal would make it known sooner and allow more economical corrective action. On the other hand, without a corrosion inspection plan, metal corrosion will continue, accidents are expected, and once an accident occurs it is highly likely that the FAA will mandate inspections. In that case, there usually is not sufficient time to thoroughly evaluate alternative solutions; instead, immediate corrective action must be selected. Such urgent action is rarely the most economical choice. Compliance with emergency inspections will result in these inspections being unscheduled, airline operators will incur aircraft out-of-service-time costs, airline flight schedules can be disrupted, and flights can be canceled. All of these factors result in reduced airline profits and lower benefits to the traveling public.

As discussed above, it is expected that this proposal would result in corrosion damage observed sooner than it would otherwise, and therefore, the corrections would be less costly. In the absence of the rule, however, it is very possible for some aircraft that corrosion could continue to breakdown the metal undetected until it becomes uneconomic to repair the damage. In

that event, earlier inspection could have extended the service life of such aircraft. It is expected that the proposed rule inspections would result in corrosion damage to be repaired before this damage would cause the aircraft to not be airworthy, or to be retired. Thus the proposed rule can extend the service life of the affected aircraft. Without knowing the condition of the affected fleet, it is not possible to accurately quantify the dollar value of this benefit. However, it is possible to provide some idea of the value of longer service life by noting the value of extending the service life by one year of a hypothetical aircraft. In such a case, the annual capital loss equals the value of the aircraft multiplied by airline's rate-of-return on capital. For an aircraft whose resale value is a million dollars and when the rate-of-return on capital equals 10 percent, the annual capital loss is $100,000. In addition, the travelling public suffers when airline service is unexpectedly reduced by the corrosion-caused premature retirement of this aircraft.

The FAA believes that the unquantified benefits discussed above further support and justify this proposal. Addressing corrosion damage in an orderly fashion, rather than waiting for an emergency action to be required, provides for less interrupted commercial service and extends airplane service life. These outcomes are clearly benefits of this proposal, even though there is insufficient data to quantify these benefits at this time.

Comparison of Costs and Benefits. Corrosion is a natural process and occurs because of the tendency over time of metals to return to their original state. Maintenance and inspection records reveal that the presence of corrosion is more prevalent and pervasive in older aircraft. Based upon an independent risk analysis of over 1,500 National Transportation Safety Board accidents and conservative risk assessment results in a forecast of a range between 25 to 50 corrosion-induced accidents over a twenty-year period, with a present value cost between $72.5 million and $145 million. The safety benefits of averting these accidents justify the costs of the proposed rule.

The FAA does not intend to wait for a series of accidents to provide justification for this proposed rule. The FAA needs the assurance of the corrosion prevention and control program to assure the continued airworthiness of the affected fleet. With this program in place the industry avoids unplanned inspections and maintenance resulting from corrosion-related accidents and benefits by an extended aircraft service life.

This proposed rule would extend to a significant number of airplanes the corrosion prevention and control program found to be necessary for in-service commercial jet airplanes based on studies following the Aloha Boeing 737 accident. Based on the analysis contained herein, the FAA concludes that the benefits of this proposed rule justify the costs.

Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination finds that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 act provides that the head of the agency may so certify, and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Recently, the Office of Advocacy of the Small Business Administration (SBA) published new guidance for Federal agencies in responding to the requirements of the Regulatory Flexibility Act, as amended. Application of that guidance to this proposed rule indicates that it would have a significant impact on a substantial number of small entities. Accordingly, a full regulatory flexibility analysis was conducted and is summarized as follows.

1. A Description of the Reasons Why Action by the Agency Is Being Considered

This action is being considered in order to control airplane structural material loss and the detrimental effects of corrosion because existing maintenance or inspection programs may not provide comprehensive, systematic corrosion prevention and control.

2. A Succinct Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the proposed rule is to ensure the continuing airworthiness of aging airplanes operating in air transportation by requiring all airplanes operated under part 121, all U.S. registered airplanes used in scheduled passenger carrying operations under part 129, and all multiengine airplanes used in scheduled passenger carrying operations conducted under part 135, to include a Federal Aviation Administration (FAA) approved corrosion prevention and control program (CPCP) in the airplane's maintenance or inspection program.

This proposal represents a critical step toward compliance with the Aging Aircraft Safety Act of 1991. In October of 1991, Congress enacted Title IV of Public Law 102 143, the ''Aging Aircraft Safety Act of 1991,'' to address aging aircraft concerns. The act was subsequently recodified as 49 U.S.C. 44717. Section 44717 of Title 49 instructs the Administrator to ''prescribe regulations that ensure the continuing airworthiness of aging aircraft.''

3. A Description of the Projected Reporting, Recordkeeping and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes or Types of Small Entities That Will Be Subject to the Requirement and the Type of Professional Skills Necessary for Preparation of the Report or Record

The proposed rule would not impose any incremental record keeping authority. Existing 14 CFR part 43, in part, already prescribes the content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records for any aircraft having a U.S. airworthiness certificate or any foreign registered aircraft used in common carriage under parts 121 or 135. The FAA recognizes, however, that the proposed rule would necessitate additional maintenance work, and consequently, would also require that the additional record keeping associated with that work also be performed.

The FAA estimates that each hour of actual inspection and maintenance conducted under the proposal would require an additional 20 percent of an hour (12 minutes) for reporting and

record keeping. This record keeping would be performed by the holder of an FAA approved repairman or maintenance certificate. The projected record keeping and reporting costs of the proposal are included as part of the overall costs computed in the evaluation and included below in the Regulatory Flexibility Cost Analysis.

4. An Identification, to the Extent Practicable, of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

The FAA is unaware of any federal rules that would duplicate, overlap, or conflict with the proposed rule.

5. A Description and an Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

The proposed rule would apply to the operators of all airplanes operated under 14 CFR part 121, all U.S. registered multiengine airplanes operated under 14 CFR part 129, and all multiengine airplanes used in scheduled operations under 14 CFR part 135. Standard industrial classification coding does not exactly coincide with the subsets of operators who could be affected by the proposed rule. Nevertheless, the following distributions of employment size and estimated receipts per employee for all scheduled air transportation firms (SIC Code 4512) are representative of the operators who would be affected by the proposed rule.

Employment category	Number of firms	Estimated receipts per employee
0–4	137	$611,695
5–9	45	510,555
10–19	52	299,123
20–99	112	264,065
100–499	78	232,666
500+	70	252,334
Totals	494	252,214

Based on existing operator/airplane distributions, the FAA estimates that 210 operators would be subject to the rule and approximately 132 would actually incur costs.[4] The agency has also estimated the numbers of subject and affected airplanes that each operator uses and has categorized the operators by fleet size in the following table.

COUNT OF OPERATORS

Operator category (airplanes)	Subject to rule	Affected by rule
1–10	119	84
11–20	37	16
21–30	12	4
31–40	8	6
41–50	4	4
51 and up	30	18
	210	132

6. Regulatory Flexibility Cost Analysis

The proposed rule would affect certain existing and future production aircraft, and it would also apply to new model airplanes intended for use in scheduled service. This Regulatory Flexibility Cost Analysis focuses on the first of these two categories because: (1) That impact represents almost 99 percent of the evaluated costs of the proposed rule, and (2) it is possible to make some estimate of the distributional impact of these costs based on the existing operator fleet composition.

Table 3 in the Appendix details the computations used to estimate the annualized costs of the proposal per airplane, by model. Column A in Table 3 lists each airplane model and Column B details the estimated counts of the airplanes in each model that would be subject to the proposed rule. As noted in the evaluation, an estimated 7,108 airplanes would be subject to this major provision. These airplanes are included within the regulatory scope of the proposal but the vast majority would be unaffected because they already comply with the proposal. Column C, by comparison, shows the projected counts of those airplanes that would actually be affected; where incremental work would be accomplished and incremental expenses incurred. This column sums to a projected 2,901 airplanes. Column D contains the present value of the projected cost of the major proposal to industry, by airplane model, as computed in the regulatory evaluation and shown previously as Column AG of Table 1 in the Appendix. The present value estimated cost of this provision totals $80.0 million.

Column E of Table 3 divides the cost-per-model data in Column D by the numbers of affected airplanes per model in Column C to produce the expected present value cost of the proposal per affected airplane. It is useful to consider the annualized equivalent of these costs; that is to say, the annual future payments that would be necessary to equal the present value costs for each model. Such payments are a function of: (1) The assumed interest rate, and (2) the time period over which the future payments would be borne. Consistent with the discount factor, this evaluation applies a 7 percent interest rate. As for the time period, the evaluation assesses costs over a 20-year time period, and this analysis assumes that, on average, the CPCP development and implementation costs would be borne over that period. Based on these two assumptions, the annualized cost of the CPCP would range between $484 and $30,170 per airplane (for those airplanes that would actually be affected.)

Next, the annualized cost estimates, by model, per affected airplane, from Table 3 were collated into the original evaluation data set of operators and airplanes. Crosstabulations were performed and aggregated (*see* Table 4 in the Appendix) to project the expected annualized cost per operator. Table 4 includes all 210 of the estimated operators of airplanes that would be subject to the proposed rule, and projects that 132 would actually incur costs. The table includes counts, by operator, the number of airplanes that would be subject to (within the scope of) the proposed rule, and the numbers of airplanes that would actually be affected by the proposal. The data in these calculations are summarized in the table below which shows the average annualized impact per operator; where the operator classifications are grouped both by: (1) The number of all airplanes that the operator uses, and (2) the number of each operator's airplanes that would actually be affected by the proposal.

AVERAGE ANNUALIZED IMPACT PER OPERATOR

Count of airplanes operated	Average annualized impact	Count of airplanes affected	Average annualized impact
1–10	$7,318	1–10	$14,057

[4] The remaining operators use airplane models that would be subject to the proposed rule but are already in full compliance.

AVERAGE ANNUALIZED IMPACT PER OPERATOR—Continued

Count of airplanes operated	Average annualized impact	Count of airplanes affected	Average annualized impact
11–20	17,551	11–20	46,479
21–30	30,711	21–30	72,326
31–40	53,838	31–40	104,708
41–50	64,359	41–50	55,789
51–60	90,769	51–60	196,433
61–70	191,587	61–70	195,857
71–80	144,698	71–80	185,253
81–90	111,116	81–90	111,116
91–100	92,093	91–100	112,023
100 Plus	217,054	100 Plus	460,822

7. Affordability Analysis and Disproportionality Analysis

As a measure of the affordability of the proposal, the table below shows a distribution of the projected annualized impacts of the proposed rule as a percentage of operator annual receipts. Operator receipt levels were estimated assuming: (1) The average of $252,214 annual receipts per employee for SIC Code 4512 operators, described above in Paragraph 5, and (2) an example factor of 5 employees per airplane operated. (This factor varies widely across operators.) The affordability statistic was then calculated for each of the 210 subject operators as the projected annualized cost of the rule for that operator divided by the product of $252,214 times 5 employees per airplane times the number of airplanes operated. Under these assumptions, the expected annualized cost of the proposal for 209 of the 210 operators falls below 0.6 percent of their respective estimated annualized receipts. For one operator, costs would total 1.38 percent of estimated receipts.

The table can also be used to gauge the disproportionality of the proposed rule's relative burden. The percentage impact calculations are shown for three sizes of operators, depending on the numbers of airplanes that they operate. The calculations show a minor disproportionate impact on smaller operators who are slightly under-represented in the lowest ''percentage impact'' categories, and correspondingly, slightly over-represented in the higher impact categories.

COUNT OF OPERATORS BY PERCENTAGE IMPACT AND BY OPERATOR SIZE

Percentage impact	Airplanes operated			
	1–10	11–50	51+	Total
0–.1	68	38	19	125
.1–.2	10	10	6	26
.2–.3	15	4	2	21
.3–.4	16	7	3	26
.4–.5	8	2	0	10
.5–.6	1	0	0	1
1.3–1.4	1	0	0	1
Total	119	61	30	210

8. Business Closure Analysis

The FAA feels that the annualized average impact of the rule as a function of an affected firm's average annual receipts is low. The agency recognizes, and this evaluation has described, that the potential impact for some operators may be above average and may not be distributed evenly over time. The cost methodology for this evaluation further addresses the fact that it may not be economical to develop and implement a corrosion prevention and control program for some older airplane models with few subject airplanes. The evaluation estimated that program costs would be prohibitive for 11 airplane models, and included a 50 percent reduction of fleet resale value as an estimated cost attributable to the rule.

9. Competitiveness Analysis

No quantitative estimate of the proposed rule's potential impact on small business competitiveness has been made. However, the FAA feels that the findings from the Affordability Analysis and the Disproportionality Analysis above support the argument that the proposed rule will not seriously impede small entity competitiveness.

10. Description of Alternatives

The FAA has considered several approaches to this proposed rulemaking and has attempted to minimize the potential economic impact of the proposal, especially the impact on the operation of aircraft most likely to be used by small entities. The principal alternative would be to take no new rulemaking action and to rely on the existing corrosion related requirements in parts 23 and 25. The FAA has determined that these existing requirements have not always resulted in a comprehensive and systematic corrosion prevention and control program for either transport, commuter, or small category airplanes. In addition, the FAA has determined that such inaction would not respond to the provisions of 49 U.S.C. 44717, which requires the Administrator to prescribe regulations that ensure the continuing airworthiness of aging aircraft.

A second alternative would be to omit all small aircraft from the proposal since there is an identifiable correlation between smaller firms and smaller aircraft. Again, the FAA opposes this alternative since it would leave the existing problem for a significant

segment of the scheduled passenger industry and would create an unacceptable safety inequity.

As proposed, this rulemaking would apply to all airplanes operated under part 121, all U.S. registered multiengine airplanes operated under part 129, and all multiengine airplanes used in scheduled operations under part 135. The proposed rule would not include helicopters, single-engine airplanes operated under part 135 or part 129, airplanes used in cargo operations under part 135, or airplanes used in unscheduled (on-demand) operations under part 135.

The aircraft and operations omitted from this proposal are not exclusively operated by small entities, but the FAA holds that the excluded airplane categories are more likely to be operated by small entities than, for example, large transport category airplanes would be. As noted above, the proposed rule would actually affect some 2,900 airplanes. By comparison, the exclusions described here, taken together, remove an estimated 5,023 additional aircraft from the proposal. This includes, with overlap, 1,441 helicopters; 4,663 aircraft used in on-demand operations; and 1,812 single-engine aircraft.

The FAA specifically requests comments regarding the exclusion of such aircraft operations from this proposed rule.

11. Compliance Assistance

In its efforts to assist small entities and other affected parties in complying with the proposed rule, the FAA is publishing an advisory circular, ''Development of Corrosion Prevention and Control Programs.'' A notice of availability for this circular will be published concurrently with the proposed rule. This circular details acceptable means of compliance with the proposed rule.

Additionally, the FAA has developed a CPCP for a generic, civil, twin-engine aircraft and will make this document available as part of the appendix to the advisory circular accompanying the proposed rule. This document can serve as a core framework for the baseline program for defining the corrosion prevention and control requirements for a subject airplane model based on the average operating profile and operating environment. This generic CPCP model would be particularly useful to small operators in the event that the type certificate holder for a given model is not available to develop the CPCP for that model.

Trade Impact Assessment

Consistent with the Administration's belief in the general superiority, desirability, and efficacy of free trade, it is the policy of the Administrator to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and those affecting the import of foreign goods and services into the United States.

In accordance with that policy, the FAA is committed to develop as much as possible its aviation standards and practices in harmony with its trading partners. Significant cost savings can result from this, both to American companies doing business in foreign markets, and foreign companies doing business in the United States.

This proposed rule would have little or no impact on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that will impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

The FAA determines that this proposed rule would not contain a significant intergovernmental or private sector mandate as defined by the Act.

Availability of Draft Advisory Material

The FAA has prepared guidance material in the form of an advisory circular (AC) to be used by operators and manufacturers in developing baseline CPCP's and incorporating them into maintenance and inspection programs. The FAA is soliciting comments on the draft AC during the comment period for this notice. A notice of availability for the draft AC is published concurrently with this notice.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation Organization (ICAO) standards and recommended practices and Joint Airworthiness Authority (JAA) regulations. ICAO Aging Aircraft Standards contain requirements for a continuing structural integrity program that includes corrosion prevention and control. At this time the JAA does not have any operating rules for airplanes, and therefore has no general requirement for corrosion programs comparable to this proposal. Nevertheless, in the interest of international harmonization, the FAA will continue to keep the JAA informed of this rulemaking.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this notice of proposed rulemaking would not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental assessment or environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4 (j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (43 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the notice is not a major regulatory action under the provisions of the EPCA.

Reporting Requirements

The proposed rule would not impose any new regulatory requirements for recordkeeping. Existing 14 CFR part 43, in applicable part, already prescribes the content, form, and disposition of maintenance, preventive maintenance, rebuilding, and alteration records for each aircraft having a U.S. airworthiness certificate or any foreign registered aircraft used in common carriage under parts 121 or 135. The FAA recognizes, however, that the proposed rule would necessitate additional maintenance work, and consequently, would also require that the recordkeeping associated with that work also be performed in accordance with existing regulations.

Paperwork Reduction Act

Information collection requirements in the proposed rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and have been assigned OMB Control Numbers 2120–0008 and 2120–0039.

List of Subjects

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Drug testing, Reporting and recordkeeping requirements, Safety, and Transportation.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements, Security measures, and Smoking.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, and Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I, Title 14 of the Code of Federal regulations parts 121, 129, and 135 as follows:

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40101, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901, 44903–44904, 44912, and 46105.

2. Add § 121.376 to read as follows:

§ 121.376 Corrosion prevention and control program.

(a) After [insert a date two years after the effective date of the final rule], no certificate holder may operate an airplane unless a corrosion prevention and control program (CPCP) is included in the operator's FAA-approved maintenance program.

(b) The CPCP must—

(1) Be designed to control corrosion such that the damage does not exceed Level 1 as defined in § 121.376a,

(2) Specify corrosion prevention and control tasks,

(3) Specify definitions of corrosion levels, compliance times (implementation thresholds and repeat intervals), and

(4) Specify procedures if corrosion damage exceeds Level 1 in any area, including mechanisms to notify the FAA of the findings and data associated with such damage and to implement FAA-approved means of reducing future findings of corrosion in that area to Level 1 or better.

(c) For airplanes that have exceeded the implementation threshold for a specific area prior to [insert date two years after the effective date of the final rule], the CPCP must include an implementation schedule that will result in the completion of all corrosion prevention and control tasks for that area no later than [insert date four years after the effective date of the final rule].

3. Add § 121.376a to read as follows:

§ 121.376a Level 1 corrosion definition.

For the purposes of this part, Level 1 Corrosion is:

(a) Corrosion damage occurring between successive inspections that is local and can be re-worked/blended-out within allowable limits as defined by the manufacturer or as approved by the FAA;

(b) Corrosion damage that is local but exceeds allowable limits and can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet; or

(c) Corrosion damage that operator experience over several years has demonstrated to be only light corrosion between successive prior inspections but that the latest inspection shows that cumulative blend-outs now exceed allowable limits as defined by the manufacturer or as approved by the FAA.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

4. The authority citation for part 129 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1511–1522, 40101, 40104–40105, 40113, 40119, 44701, 44901, 44903–44904, 44906, 44912, 44914, 44935–44939, 48107.

5. Revise § 129.1(b) to read as follows:

§ 129.1 Applicability.

* * * * *

(b) In addition to operations of U.S.-registered aircraft within the United States under paragraph (a) of this section, §§ 129.14, 129.16, 129.20, 129.33, and 129.35 also apply to U.S.-registered aircraft operated solely outside the United States in common carriage by a foreign person or foreign air carrier.

6. Add § 129.24 to read as follows:

§ 129.24 Level 1 corrosion definition.

For the purposes of this part, Level 1 Corrosion is:

(a) Corrosion damage occurring between successive inspections that is local and can be re-worked/blended-out within allowable limits as defined by the manufacturer or as approved by the FAA;

(b) Corrosion damage that is local but exceeds allowable limits and can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet; or

(c) Corrosion damage that an operator has experienced over several years has demonstrated to be only light corrosion between successive prior inspections but that the latest inspection shows that cumulative blend-outs now exceed allowable limits as defined by the manufacturer or as approved by the FAA.

7. Add § 129.35 to read as follows:

§ 129.35 Corrosion prevention and control program.

(a) After [insert a date two years after the effective date of the final rule], no foreign air carrier or foreign person may operate U.S.-registered multiengine airplane in common carriage, unless a Corrosion Prevention and Control Program (CPCP) is included in the operator's FAA-approved maintenance program.

(b) The CPCP must—

(1) Be designed to control corrosion such that the damage does not exceed Level 1 as defined in § 129.24,

(2) Specify corrosion prevention and control tasks,

(3) Specify definitions of corrosion levels, compliance times (implementation thresholds and repeat intervals), and

(4) Specify procedures if corrosion damage exceeds Level 1 in any area, including mechanisms to notify the FAA of the findings and data associated with such damage and to implement FAA-approved means of reducing future findings of corrosion in that area to Level 1 or better.

(c) For airplanes that have exceeded the implementation threshold for a specific area prior to [insert date two years after the effective date of the final rule], the CPCP must include an implementation schedule that will result in the completion of all corrosion prevention and control tasks for that area no later than [insert date four years after the effective date of this rule].

PART 135—OPERATING REQUIREMENTS; COMMUTER AND ON-DEMAND OPERATIONS

8. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40105, 44113, 44701–44705, 44707–44717, 44722, and 45303.

9. Add § 135.424 to read as follows:

§ 135.424 Corrosion prevention and control program.

(a) After [insert a date two years after the effective date of the final rule], no certificate holder may operate a multiengine airplane in scheduled service unless a Corrosion Prevention and Control Program (CPCP) is part of the operator's FAA-approved maintenance or inspection program.

(b) The CPCP must—

(1) Be designed to control corrosion such that the damage does not exceed Level 1 as defined in § 135.426,

(2) Specify corrosion prevention and control tasks,

(3) Specify definitions of corrosion levels, compliance times (implementation thresholds and repeat intervals), and

(4) Specify procedures if corrosion damage exceeds Level 1 in any area, including mechanisms to notify the FAA of the findings and data associated with such damage and to implement FAA-approved means of reducing future findings of corrosion in that area to Level 1 or better.

(c) For airplanes that have exceeded the implementation threshold for a specific area prior to [insert date two years after the effective date of the final rule], the CPCP must include an implementation schedule that will result in the completion of all corrosion prevention and control tasks for that area no later than [insert date four years after the effective date of the final rule].

10. Add § 135.426 to read as follows:

§ 135.426 Level 1 corrosion definition.

For the purposes of this part, Level 1 Corrosion is:

(a) Corrosion damage occurring between successive inspections that is local and can be re-worked/blended-out within allowable limits as defined by the manufacturer or as approved by the FAA;

(b) Corrosion damage that is local but exceeds allowable limits and can be attributed to an event not typical of the operator's usage of other airplanes in the same fleet; or

(c) Corrosion damage that an operator has experienced over several years has demonstrated to be only light corrosion between successive prior inspections but that the latest inspection shows that cumulative blend-outs now exceed allowable limits as defined by the manufacturer or as approved by the FAA.

Issued in Washington, DC, on September 25, 2002.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 02–24932 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Development and Implementation of Corrosion Prevention and Control Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability and request for comments.

SUMMARY: This notice announces the availability of and request for comments on proposed AC XX–XX, which provides guidance pertaining to the development and implementation of the Corrosion Prevention and Control Program.

DATES: Comments must be received on or before April 1, 2003.

ADDRESSES: Send all comments on the proposed AC to: Frederick Sobeck, AFS–304, Aging Airplane Program Manager, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone number: (202) 267–7355.

FOR FURTHER INFORMATION CONTACT: Frederick Sobeck, AFS–304, Aging Airplane Program Manager, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., Washington, DC 20591; telephone number: (202) 267–7355.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by accessing the FAA's Web page at *http://www.faa.gov/avr/arm/nprm.cfm?nav.nprm* or at *http://faa.gov/avr/afs/acs/ac-idx.htm.* Interested parties are invited to submit comments on the proposed AC. Commenters must identify AC XX, and submit comments to the address specified above. The FAA will consider all communications received on or before the closing date for comments before issuing the final AC.

Discussion

A corrosion prevention and control program (CPCP) is a systematic approach to controlling corrosion in the airplane's primary structure. The objective of a CPCP is to limit the material loss due to corrosion to a level necessary to maintain airworthiness. A CPCP consists of a basic corrosion inspection task, task areas, defined corrosion levels, and compliance times (implementation thresholds and repeat intervals). The CPCP also includes procedures to notify the FAA of the findings and data associated with Level 2 and Level 3 corrosion and the actions taken to reduce future findings to Level 1.

In order to operate an airplane under part 121, part 129, or a multiengine airplane in scheduled service under part 135, an operator should include in its maintenance or inspection program an FAA-approved CPCP. An operator may adopt the baseline program provided by the design approval holder or the operator may choose to develop its own CPCP or may be required to if none is available from the design approval holder. In developing its own CPCP, an operator may join with other operators and develop a baseline program similar to a design approval holder developed baseline program for use by all operators in the group. There are two advantages of an operator-developed baseline program.

Issued in Washington, DC, on September 25, 2002.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

[FR Doc. 02–24933 Filed 10–2–02; 8:45 am]

BILLING CODE 4910–13–M

Federal Register

Thursday,
October 3, 2003

Part IV

The President

Proclamation 7598—Gold Star Mother's Day, 2002

Memorandum of October 1, 2002—Notification to the Congress of Trade Negotiations

Federal Register
Vol. 67, No. 192
Thursday, October 3, 2003

Presidential Documents

Title 3—

The President

Proclamation 7598 of September 27, 2002

Gold Star Mother's Day, 2002

By the President of the United States of America

A Proclamation

Throughout our rich history, many of our Nation's dedicated military men and women have served and sacrificed their lives to secure our country, defend our freedoms, and preserve the values of our democracy. Many of these heroes fell in battle, leaving behind family, friends, and loved ones who grieve their loss to this day. Every year, we recognize and honor mothers who have lost sons and daughters in service to our country—our Gold Star Mothers—and we thank them for their strength and their contributions to our Nation.

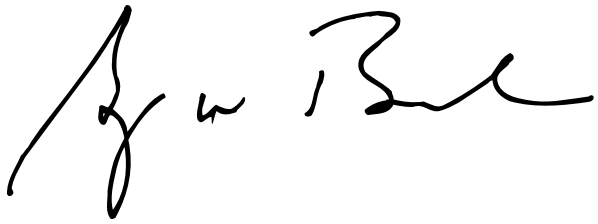
Our Gold Star Mothers help us remember those who have been lost by upholding the ideals for which their children gave their lives. These brave women are devoted to improving and enhancing the lives of those in our Armed Forces, their families, and our veterans, and they encourage civic education, patriotism, and the teaching of American history. These efforts enrich the lives of countless young Americans, and they support my Administration's work to build a culture of service, citizenship, and responsibility in our country.

By advancing national pride and promoting international goodwill, Gold Star Mothers serve as models of grace and strength. As we honor their patriotism and dedication, we renew our commitment to upholding the honorable legacy of their fallen children by pursuing a future of security, liberty, and peace.

The Congress, by Senate Joint Resolution 115 of June 23, 1936, (49 Stat. 1895 as amended), has designated the last Sunday in September as ''Gold Star Mother's Day,'' and has authorized and requested the President to issue a proclamation in observance of this day.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim Sunday, September 29, 2002, as Gold Star Mother's Day. I call upon all Government officials to display the flag of the United States over Government buildings on this solemn day. I also encourage the American people to display the flag and to hold appropriate meetings in their homes, places of worship, or other suitable places as a public expression of the sympathy and respect that our Nation holds for our Gold Star Mothers.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-seventh day of September, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh



[FR Doc. 02–25367
Filed 10–2–02; 8:45 am]
Billing code 3195–01–P.

Presidential Documents

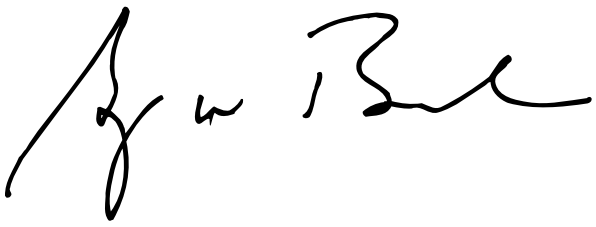
Memorandum of October 1, 2002

Notification to the Congress of Trade Negotiations

Memorandum for the United States Trade Representative

You are authorized and directed to notify the Congress pursuant to section 2104(a)(1) of the Trade Act of 2002 (19 U.S.C. 3804(a)(1)), of my intention to enter into negotiations on a Free Trade Agreement with the Kingdom of Morocco and a Free Trade Agreement with Central American Countries. You are also authorized and directed to notify the Congress, pursuant to section 2106(b)(2) of the Trade Act of 2002 (19 U.S.C. 3806(b)(2)), of the ongoing negotiations on Free Trade Agreements with the Republic of Singapore and the Republic of Chile, negotiations to establish a Free Trade Area for the Americas, and negotiations under the auspices of the World Trade Organization.

You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, October 1, 2002.

[FR Doc. 02–25368
Filed 10–2–02; 8:45 am]
Billing code 3190–01–M

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Alcohol, Tobacco and Firearms Bureau
Alcoholic beverages:
Wine; labeling and advertising—
American wines; Petite Sirah and Zinfandel; new prime grape variety names; comments due by 10-8-02; published 6-6-02 [FR 02-14132]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 3880/P.L. 107–230

To provide a temporary waiver from certain transportation conformity requirements and metropolitan transportation planning requirements under the Clean Air Act and under other laws for certain areas in New York where the planning offices and resources have been destroyed by acts of terrorism, and for other purposes. (Oct. 1, 2002; 116 Stat. 1469)

H.R. 4687/P.L. 107–231

National Construction Safety Team Act (Oct. 1, 2002; 116 Stat. 1471)

H.R. 5157/P.L. 107–232

To amend section 5307 of title 49, United States Code, to

allow transit systems in urbanized areas that, for the first time, exceeded 200,000 in population according to the 2000 census to retain flexibility in the use of Federal transit formula grants in fiscal year 2003, and for other purposes. (Oct. 1, 2002; 116 Stat. 1478)

S. 2810/P.L. 107–233
To amend the Communications Satellite Act of 1962 to extend the deadline for the INTELSAT initial public offering. (Oct. 1, 2002; 116 Stat. 1480)

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